



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP4/15

Depositor, dormant account and policyholder protection — amendments

January 2015

Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

Prudential Regulation Authority, registered office: 8 Lothbury, London EC2R 7HH.
Registered in England and Wales No: 07854923



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP4/15

Depositor, dormant account and policyholder protection — amendments

January 2015

The Bank of England and the PRA reserve the right to publish any information which it may receive as part of this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure, in accordance with access to information regimes under the Freedom of Information Act 2000 or the Data Protection Act 1998 or otherwise as required by law or in discharge of our statutory functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England or the PRA receive a request for disclosure of this information, the Bank of England or the PRA will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England and the PRA.

Responses are requested by 27 February 2015.

Please address any comments or enquiries regarding depositor protection and dormant accounts to:

Rosie Kameen and Josh Sadler
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

Email: CP4_15@bankofengland.co.uk

Please address any comments or enquiries regarding policyholder protection to:

Orla Fitzpatrick
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

Email: CP4_15@bankofengland.co.uk

Contents

1	Overview	5
2	Depositor protection — transitional rules and schedules	8
3	Depositor protection — supervisory statement	12
4	Depositor protection — rule waivers and modifications	13
5	Funding of the dormant account scheme	14
6	Policyholder protection — transitional rules and schedules	16
7	Consequential and minor amendments	17
Appendices		19

1 Overview

Background

1.1 This consultation paper (CP) sets out proposals for transitional provisions and new rules in the Prudential Regulatory Authority (PRA) Rulebook and consequential amendments to the PRA Handbook that arise as a result of the rules being proposed in both the Depositor Protection and the Policyholder Protection consultation papers (CP20/14⁽¹⁾ and CP21/14⁽²⁾) published in October 2014.

1.2 The consultation is relevant to:

- UK banks, building societies and credit unions as well as to overseas firms with PRA deposit-taking permission and UK branches of European Economic Area (EEA) credit institutions;
- UK insurers (including those that establish a branch or operate on a freedom of services basis in the EEA), EEA insurers that establish a UK branch or operate in the UK on a freedom of services basis, and Channel Islands insurers or Isle of Man insurers with UK, Channel Island or Isle of Man risks or commitments (PRA-authorised insurers);⁽³⁾
- the Financial Services Compensation Scheme (FSCS), as the UK's administrator of the Deposit Guarantee Scheme (DGS) and as the scheme administrator of the policyholder protection rules;
- depositors and policyholders;
- dormant account fund operators;
- firms that have assumed responsibility for liabilities from PRA-authorised insurers (successors); and
- the Society of Lloyd's.

1.3 The package of measures across the PRA's consultations (CP4/15, CP20/14 and CP21/14) helps minimise the adverse impact the failure of a PRA-authorised deposit-taker, dormant account fund operator or PRA-authorised insurer would have on UK financial stability and helps deliver effective compensation or continuity to eligible depositors, dormant account holders and policyholders.

1.4 Where a chapter is relevant to depositor, dormant account or policyholder protection only, this is indicated in the chapter heading.

Proposals under consultation

1.5 For depositor protection, the PRA proposes:

- transitional rules for single customer view (SCV), account marking and information requirements until rules proposed under CP20/14 come into effect (see Chapter 2);
- a supervisory statement setting out the PRA's expectations around the marking of eligible accounts and deposits, the recast Deposit Guarantee Schemes Directive (DGSD) information requirements and SCV reporting during the transition period (see Chapter 3); and
- an approach in relation to the treatment of existing compensation sourcebook (COMP) rule waivers and modifications granted to firms in accordance with section 138A of the Financial Services and Markets Act (FSMA) (see Chapter 4).

1.6 For dormant account protection, the PRA proposes:

- rules on compensation arrangements following a review of the existing PRA Handbook material in COMP and Chapter 6 of the FEES Manual (FEES 6);
- a statement of policy setting out the PRA's expectations of the FSCS with respect to the Dormant Account Scheme (DAS); and
- a supervisory statement setting out the PRA's expectations of a dormant account fund operator with regards to the requirement to provide information to the FSCS (see Chapter 5).

1.7 For policyholder protection, the PRA proposes:

- introduction of two new transitional rules which clarify: what circumstances, actions and measures will continue to fall under the current COMP and FEES 6 rules; and from

(1) *PRA Consultation Paper CP20/14*, 'Depositor protection', October 2014; www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp2014.aspx.

(2) *PRA Consultation Paper CP21/14*, 'Policyholder protection', October 2014; www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp2114.aspx.

(3) For the purposes of this CP, references to 'PRA-authorised insurers' include all such firms, even though EEA insurers will, in fact, be authorised by their own home state regulator.

3 July 2015 what circumstances, actions and measures will fall under the new Policyholder Protection Part rules (see Chapter 6); and

- transposition of certain existing COMP and FEES 6 transitional provisions.

1.8 The PRA also consults on consequential amendments to the PRA Handbook relevant to deposit-takers and insurers. These amendments reflect the deletion of COMP and FEES 6 (to include certain rules in FEES 1 and 2, relating to FEES 6) from the PRA Handbook, update cross references to the FSCS and the DGSD and introduce relevant new defined terms (see Chapter 7).

Statutory obligations

1.9 In discharging its general functions of making rules, and determining the general policy and principles by reference to which it performs particular functions, the PRA must, so far as reasonably possible, act in a way that advances its general objective to promote the safety and soundness of the firms it regulates. These proposals advance the PRA's general objective by seeking to minimise the adverse effect that the failure of a PRA firm could be expected to have on the stability of the UK financial system. They may also support the safety and soundness of firms by enhancing depositor confidence, thus reducing the risk of disorderly runs on deposit-takers. In addition, the rules proposed relating to policyholder protection are intended to contribute to securing an appropriate degree of protection for policyholders as required under the PRA's insurance objective.

1.10 In making its rules and establishing its practices and procedures, the PRA has had regard to the Regulatory Principles as set out in FSMA. For example, this consultation proposes a move towards new SCV requirements for large corporate deposits over a transition period, which is intended to help minimise the burden on firms and support the principle of proportionality.

1.11 When consulting on draft rules, the PRA is also required to consider the impact on mutuals, competition and equality and diversity. Where the PRA has identified additional implications beyond those assessed in CP20/14 and CP21/14 as a result of the proposals in this consultation these are set out below.

Economic impact

1.12 The PRA is required to perform a cost benefit analysis in respect of proposed rules. The costs and benefits of implementing recast DGSD requirements and new SCV rules were set out in CP20/14 and the costs and benefits of implementing the new policyholder protection rules were set

out in CP21/14. Where proposed changes in this consultation will add any further material costs or benefits, these are reflected in the relevant chapters and summarised below.

1.13 No material additional costs are expected as a result of the proposed depositor transitional rules. In general the transitional rules seek, to the extent possible, to allow firms 18 months to meet the requirements, with only requirements under the recast DGSD taking effect from 3 July 2015.

1.14 Under proposed rules firms that only accept deposits from large corporates that are excluded from FSCS cover under existing rules ('wholesale-only firms') will not be subject to the 2016 FSCS levy, while their deposits benefit from FSCS protection. Retail firms that accept large corporate deposits will also not pay FSCS levies in respect of these deposits during this time. In a firm failure during the transition period, potential compensation costs may be transferred from firms accepting large corporate deposits to retail-only firms. The PRA considers that this is justified in order to facilitate a more orderly and cost effective transition for wholesale deposits. This risk only arises during the transition period.

1.15 The PRA proposes that wholesale-only firms will be subject to FSCS levies for the first time in July 2017. This will include levies raised to pay legacy retail costs, in line with the current approach taken with other new entrants to the FSCS deposits class. It is anticipated that these contributions will have fallen considerably by this time and therefore the impact on wholesale-only firms is not expected to be material.

1.16 A proportionate approach has been taken in respect of existing waivers and modifications to COMP rules. The proposed depositor protection rules address several issues which previously led to modifications or waivers being granted, so that a number of modifications or waivers will no longer be necessary, and firms will benefit from not needing to use the modification/waiver process. Where waivers and modifications are no longer permitted, or cannot be easily transitioned, or where individual firms wish to reapply for firm-specific waivers and modifications to new rules, the PRA expects that there will be a small resource implication on affected firms to adapt processes or reapply.

1.17 Under the proposed rules, a dormant account fund operator will no longer contribute to costs imposed by the FSCS on the deposits class. The impact is not expected to be material as a dormant account fund operator's proportionate contribution to levies imposed on the deposits class is currently small. In addition, in the event of failure of a dormant account fund operator, credit unions will no longer contribute to compensation costs. The corresponding increase in levies paid by banks and building societies is expected to be small given that credit unions' proportional share of FSCS

levies is relatively low and the probability of failure of dormant account fund operators is expected to be low.

1.18 The policyholder protection transitional and consequential amendments set out in this consultation are a direct result of the changes that will be imposed by the proposed Policyholder Protection Part. The proposed two new transitional rules benefit firms as they clarify what circumstances, actions or measures will be dealt with under the current rules, and, from 3 July, what circumstances, actions or measures will be dealt with under the proposed Policyholder Protection Part rules. Overall, there are no material additional costs or benefits expected as a result of the policyholder protection transitional and consequential amendments proposed in this consultation.

Impact on mutuals

1.19 FSMA requires that the PRA assesses whether, in its opinion, the impact of the proposed rules on mutuals will be significantly different from the impact on other firms. The PRA expects that all firms could benefit from the proposed extended timeframe to include large corporates within the SCV file, although this benefit may be less relevant to mutuals as they are less likely to have a large number of large corporate accounts. All firms will also be subject to the recast DGSD requirements to provide to the FSCS, on request, information necessary for payout, although as mutuals are less likely to have large corporate deposits, they are more likely to be able to meet this requirement through their existing SCV file. The PRA does not expect the impact of the transitional rules, or the approach to existing waivers/modifications, on mutuals to be materially different from the impact on other firms. Credit unions will benefit from the proposed approach with regards to the funding of the dormant account scheme as they will no longer be liable for costs arising from the scheme. This benefit is likely to be marginal given the relatively low probability of failure of a dormant account fund operator.

1.20 The PRA does not expect the impact of the policyholder protection transitional and consequential amendments on mutuals to be materially different from the impact on other firms. The friendly society transitional rule is carried over from the current COMP transitionals and continues to provide clarity that the FSCS will continue to administer the compensation scheme for friendly societies.

Impact on competition

1.21 When discharging its general functions in a way that advances its primary objectives, the PRA has, as a secondary objective, a duty to facilitate effective competition in the markets for services provided by PRA-authorized persons. The PRA does not expect an impact on competition as a direct

result of the proposed depositor protection, dormant account scheme or policyholder protection rules.

1.22 Incumbent firms currently subject to SCV requirements will be treated similarly to wholesale-only firms and new entrants, as it is proposed to allow firms 18 months to include large corporate accounts within the SCV file.

1.23 As outlined above, in the event of a firm failure there may be some transfer of cost from firms holding large corporate deposits to retail-only firms during the transition period, although this is not expected to be significant. This is not expected to have an impact on competition. Retail firms that accept large corporate deposits will also not pay FSCS levies in respect of their large corporate deposits during this time.

Equality and diversity

1.24 The PRA may not act in an unlawfully discriminatory manner. It is also required under the Equality Act 2010 to have regard to the need to eliminate discrimination and to promote the equality of opportunity in carrying out its policies, services and functions. To meet its requirement, the PRA has performed an assessment of the proposals considered in this consultation and has not identified any equality and diversity implications.

Responses and next steps

1.25 This consultation closes on 27 February 2015. The PRA invites feedback on the proposals set out in this consultation. Respondents are requested to structure their responses by chapter. Please address any comments or enquires to CP4_15@bankofengland.co.uk by 27 February.

1.26 The PRA will publish separate depositor protection and policyholder protection policy statements (PS) with the final rules, supervisory statements, statements of policy and address any issues raised in the feedback to CP20/14, CP21/14 and this consultation in 2015 H1. Final rules for the dormant account scheme will be included in the depositor protection PS.

2 Depositor protection — transitional rules and schedules

2.1 This chapter explains the PRA's proposals with regard to proposed transitional rules which will apply from 3 July 2015 until final depositor protection rules (consulted on in CP20/14) come into force 18 months after the PRA publish a policy statement in 2015 H1 ('the transition period'). The proposals set out transitional SCV rules, transpose certain recast DGSD requirements and address the treatment of existing transitional rules and schedules in COMP. As transposition of the recast DGSD in the United Kingdom will be achieved through a combination of HM Treasury legislation and rules made by the PRA, proposed rules included in this consultation may be subject to change. Appendix 1 contains the relevant proposed rules.

Transitional rules

2.2 In CP20/14, the PRA proposed new rules in the PRA Rulebook in place of existing rules in COMP and FEES 6 of the PRA Handbook, which would in general come into force on 3 July 2015, in line with the transposition deadline for the recast DGSD. This was with the exception of certain rules (Depositor Protection 11.4–13.3) relating to SCV and continuity of access requirements which would come into force after the transition period. CP20/14 explained the PRA's intention to consult on an interim version of COMP 17 (which sets out existing SCV rules) in a separate consultation to ensure that the transitional rules during this time work with the new recast DGSD concepts and that the requirements of the recast DGSD (eg those on eligibility) are transposed by 3 July 2015.

2.3 In order to provide clarity to firms, the PRA proposes that the transitional rules sit as a stand-alone regime in the PRA rulebook. The proposed transitional rules (Depositor Protection Chapter 48–53) are set out in Appendix 1 and are drafted to reflect as closely as possible the rules in COMP 17. COMP 17 will be deleted with effect from 3 July 2015. The proposed transitional rules will apply during the transition period and will then be deleted when Depositor Protection Chapters 11–13 come into effect after the transition period.

Transitional SCV rules

2.4 The transitional rules adopt the recast DGSD 'eligible deposit' as the core building block.⁽¹⁾ Therefore, the PRA's proposed transitional rules mean firms will need to remove previously protected deposits from their SCV files (eg credit

union own funds) which will become ineligible under the proposed depositor protection rules and include newly eligible deposits (although see below for the eligible deposits of large corporates).

2.5 CP20/14 proposed that firms currently subject to SCV rules update their SCV files to include all eligible depositors including newly eligible large corporates. As firms will need time to prepare for the inclusion of a new potentially large group of depositors within their SCV files, the proposed transitional rules do not require firms to include large corporate deposits within their SCV file until the requirements in Depositor Protection Chapters 11–13 come into effect. As a result the transitional SCV rules exclude the deposits of companies that are large companies (as defined in the rules).⁽²⁾

2.6 During the transition period the PRA intends that firms remain subject to a requirement to be able to provide the FSCS with an SCV of each depositor's aggregate eligible deposits (excluding large corporates) within 72 hours of a request by the FSCS. Exceptions around beneficiary and not active accounts remain the same, although these now reflect recast DGSD definitions.

2.7 During the transition period SCV functionality, format, and transmission requirements remain unchanged, as does the option for firms with fewer than 5,000 accounts held by eligible depositors to opt out of electronic SCV rules. The existing requirement to include a check facility to identify any portion of an eligible deposit that is over £85,000 is also unchanged.

2.8 Existing requirements around the submission of an SCV sample file to the FSCS will remain unchanged during the transition period, although if a firm wishes to submit a full SCV file rather than a sample file, this is acceptable.

2.9 For the sake of clarity, the requirements to mark accounts in Depositor Protection 11.1–11.2 have been copied into the stand-alone transitional rules at Depositor Protection 48.2–48.3. These proposed rules have already been consulted upon in CP20/14 and are not being consulted upon again, except to the extent they relate to the PRA's expectations as outlined in the proposed supervisory statement on marking.

(1) Rule 50.2 of the Depositor Protection Part.

(2) Rule 50.3 of the Depositor Protection Part.

Implications for firms holding large corporate deposits (including wholesale-only firms)

2.10 While the PRA proposes that large corporate deposits do not need to be included in the SCV file during the transition period, firms must be able to provide the FSCS with the aggregate amount of eligible deposits of each and every depositor (including large corporates) upon receipt of a request by the FSCS during this time (see proposed Depositor Protection 48.4 and 48.5). Firms must also be able to provide the FSCS with all information necessary to enable the FSCS to prepare for the payment of compensation and provide this information to the FSCS to enable the payment of compensation within the applicable time period (see proposed Depositor Protection 48.6 and 48.7). These are recast DGSD requirements.⁽¹⁾

2.11 Further details on how the PRA expects firms to fulfil these requirements for large corporate eligible deposits where they have not yet included these in their SCV file, or do not yet have an SCV file, during the transition period are set out in the supervisory statement in Appendix 5. In summary, the PRA expects such firms to have a plan in place for how they would meet the requirements should they receive a request from the FSCS. For the avoidance of doubt, firms will not be required to collect information to meet the requirements ahead of such a request, only to have a credible plan in place to do so if required, and the FSCS is unlikely to ask for such information unless in a failure scenario or in preparation for a possible failure scenario.

2.12 During the transition period, the PRA is proposing that the FSCS shall, where it has sufficient information from the depositor or firm, ensure that a large corporate depositor has access to their covered deposits, within fifteen business days of a request from the depositor which contains sufficient information to enable the FSCS to make the payment (see proposed Depositor Protection 9.3(2)).

2.13 The PRA also proposes to amend Depositor Protection 9.3(1), as consulted upon in CP20/14, to ensure that small businesses as well as individuals can have access to an appropriate amount of their covered deposits to cover cost of living/necessary business expenses within five business days of a request, and to ensure that the FSCS can access sufficient information from the depositor or the credit institution to support a payment.

Transitional SCV reporting rules

2.14 SCV reporting requirements are also covered in the proposed transitional rules. The PRA proposes that from 3 July 2015 firms adopt the combined SCV report outlined in CP20/14, which combines the existing SCV report and SCV implementation report as well as adding further reporting relating to dependencies and controls. The PRA proposes that the new single report in transitional and final rules will be

called the 'SCV effectiveness report' to distinguish it from previous reports.

2.15 The SCV effectiveness report will contain sections for requirements which are due to be implemented after the transition period. It is expected that firms will indicate that such sections are not applicable if reporting during the transition period on requirements they have yet to implement. Therefore, the introduction of the new report is not expected to have any additional cost to firms. A report template will be made available to firms by the FSCS.

2.16 During the transition period the SCV effectiveness report would be submitted within three months of a firm receiving a permission to accept deposits or a material change to a firm's SCV system. There will not be a regular submission requirement during transition, although the PRA or the FSCS may request the report at any time.

2.17 The PRA expects that minor changes to the SCV system (such as to achieve the SCV changes outlined in the proposed rules in Depositor Protection Chapter 50) would not constitute a material change to the SCV system. This is to ensure that minimal changes to SCV systems do not trigger SCV file and report submission requirements. The full implementation of the range of SCV changes required under proposed Depositor Protection Chapters 11–13, or significant steps towards this, would be considered a material change. This is addressed in the proposed supervisory statement in Appendix 5. The final reporting and timing requirements following the transition period will be confirmed in the policy statement.

Marking effectiveness report

2.18 The PRA proposes a marking effectiveness report to include reporting of the arrangements firms have in place to meet proposed Depositor Protection 48.2–48.3 to identify eligible accounts. Proposed Depositor Protection Chapter 49 sets out the content of this report, which contains similar implementation and attestation sections to the SCV effectiveness report, and can be submitted as part of the same report. The marking effectiveness report is only proposed as a separate requirement during the transition period at this stage, and final reporting arrangements for the post transition period will be confirmed in the policy statement. While this is an additional reporting requirement on firms, the report is narrow in scope and likely to be a limited cost to firms. The PRA will develop a process to work alongside the report in order to verify that firms have effective marking arrangements in place.

General transitional rule applicability

2.19 The PRA expects that firms will begin to make progress towards final rules during the transition period, so in order to ensure firms are able to implement Depositor Protection

(1) See Articles 4(8), 7(6) and 8(6) of the recast DGSD.

Chapters 11–13 ahead of the required implementation date if so desired, the PRA proposes that firms may submit SCV files and reports during the transition period compliant with the transitional rules, but including the additional provisions proposed in Depositor Protection Chapters 11–13. This is addressed in the proposed supervisory statement in Appendix 5.

2.20 The proposed transitional SCV rules would not apply to firms that only accept eligible deposits from large corporates (wholesale-only firms), although such firms would be subject to the other requirements taking effect on 3 July 2015 (eg account marking, disclosure requirements, information requirements). As above, it is expected that firms will begin to make progress towards the proposed final rules during the transition period.

FSCS tariff data reporting during the transition period

2.21 The PRA proposes that the FSCS levy tariff base for deposit-takers (the class A tariff base) in the transition period between 3 July 2015 and the implementation of final SCV requirements, reflects as closely as possible, within the requirements of the recast DGSD, the current levy base. In consequence, the Class A tariff base will be calculated in accordance with Depositor Protection 42.1 as modified by transitional Depositor Protection 52.2. In short, this means covered deposits, excluding the eligible deposits of large corporates.

2.22 The PRA has identified large corporates as the main group newly eligible for cover by the FSCS, so during the transition period, firms should report covered deposits under the recast DGSD with the exception of large corporate deposits. The reason for this is that, under proposed transitional rules, firms may not yet have included newly eligible large corporate deposits in their SCV file and so may not have identified the amount of covered deposits for these depositors during this time (although, as referred to above, they must have a credible plan in place for how they would obtain aggregate deposits data for large corporate depositors if they received a request from the FSCS). Firms should note that deposits that are no longer eligible for DGS protection (eg credit unions' own funds) should not be included.

2.23 As a consequence of the proposed arrangements, firms that only accept eligible deposits from large corporates (wholesale-only firms) will not have tariff data to report during the transition period.

2.24 After the transition period all deposit-takers must report a class A tariff base of covered deposits. This means that future compensation cost levies, including levies raised to pay

off legacy costs and levies to fund payouts arising from new deposit-taker failures, will be based on the amount of covered deposits reported by firms.⁽¹⁾

2.25 For the avoidance of doubt, the proposed tariff base for DGS compensation costs for the 2015–17 FSCS levies is set out in **Table 1**.

Table 1 Proposed DGS tariff base for future DGS compensation cost levies

	Tariff data based on data as at:	Proposed tariff base for reporting purposes:
2015 levy	31.12.14	Covered deposits, ^(a) excluding the eligible deposits of large corporates
2016 levy	31.12.15	Covered deposits, excluding the eligible deposits of large corporates
2017 levy and future levies	31.12.16	Covered deposits

Note: Interest repayments on legacy costs are based on the tariff year one year prior to other levies raised.

(a) Covered deposits are defined in Depositor Protection 1.4

Approach to current COMP and FEES transitionals and schedules

2.26 The PRA has reviewed the existing PRA Handbook transitional provisions set out in COMP and FEES 6. The existing transitional provisions are not relevant going forward as the COMP and FEES rules to which they relate are not being carried over to the proposed Depositor Protection Part. As such, these transitional provisions are not being replicated in the Depositor Protection Part.

2.27 The PRA has reviewed COMP Schedules 1–6 which set out a summary of the reporting and notification requirements contained in COMP and FEES applicable to the FSCS. The Depositor Protection Part will not contain an equivalent summary of the reporting and notification rules contained in that Part.

2.28 The PRA has also reviewed FEES Schedule 6, which refers to the PRA's ability to waive all rules in FEES, but the PRA does not intend to take this schedule forward as it merely restates the statutory position under section 138A of FSMA.

Economic impact

Transitional rules

2.29 The estimated costs of the proposed depositor protection rules were set out in CP20/14. The transitional

(1) Interest repayments on legacy costs are based on the tariff base on the year prior to other FSCS levies raised. This means that legacy cost levies raised in 2017 for capital repayments will be based on 31.12.16 tariff data whereas interest repayments will be based on tariff data as at 31.12.15.

deposit protection rules seek to the extent possible to allow firms 18 months to meet the requirements, with only requirements under the recast DGSD taking effect from 3 July 2015. No material additional costs are expected as a result of the transitional rules.

Transitional funding arrangements in respect of large corporate deposits

2.30 In the transition period where firms are not required to include large corporate deposits in the SCV file (and wholesale-only firms need not have SCV in place), the proposal is that levies should be calculated using a tariff base of covered deposits, as modified by transitional Depositor Protection 52.2 rather than covered deposits as defined in the recast DGSD.

2.31 This would mean that firms that accept deposits that are currently excluded from FSCS cover under existing PRA rules (eg large corporate deposits) benefit from FSCS protection from 3 July 2015 onwards, but will not pay their first levy in respect of this protection until July 2017. There is therefore a possibility that should a firm fail in this transition period, potential associated compensation costs (and management costs) may be transferred from firms holding large corporate

deposits to retail-only firms. The PRA considers the temporary transfer of a relatively small risk from the wholesale to retail market is justified in order to facilitate a more orderly and cost effective transition for large corporate deposits.

The impact of legacy costs on changes in the tariff base

2.32 Under the transitional funding rules proposed, the first levy on the new deposit base including deposits from large corporates will be raised in July 2017. The legacy costs relating to the 2008/09 banking failures are not expected to have been fully paid off by then, implying that wholesale-only firms will also contribute towards these costs and retail firms with wholesale deposits will contribute proportionally more. The FSCS has indicated that as a result of levies through to 2015/16, the capital portion of the legacy costs is expected to be paid off completely (excluding that relating to the failure of Bradford & Bingley, which is expected to be recovered completely through the estate). By the time the first levy is raised under the covered deposits tariff base in July 2017, the PRA expects that the costs will have fallen relative to the current level. It is unlikely that this contribution to legacy costs by firms in respect of their large corporate deposit base will be material in comparison to their profits.

3 Depositor protection — supervisory statement

3.1 This chapter explains the rationale behind the proposed supervisory statement which supports firms in making judgements to comply with Depositor Protection 11.1–11.3 proposed in CP20/14 (which take effect following the transition period) and the equivalent rules in the transitional rules at Depositor Protection 48.2–48.3 as set out in this consultation (which will apply on 3 July 2015). The proposed supervisory statement is set out at Appendix 5.

3.2 CP20/14 proposed that firms would be required to comply with the recast DGSD requirement to mark eligible deposits, as well as the requirement to mark beneficiary accounts which may contain eligible deposits from 3 July 2015. Since publication of CP20/14, firms have requested further clarity on how to meet these requirements, and in particular whether changes to core systems are required and how quickly deposits and accounts should be identified. To assist firms in understanding the PRA's expectations and to support preparations to meet the 3 July 2015 deadline, the proposed supervisory statement sets out possible approaches that firms could follow to meet these requirements.

3.3 Regarding the separate but similar marking requirements to support the Bank Recovery and Resolution Directive (BRRD) depositor hierarchy, the PRA understands from firms that there may be some challenges to identifying micro, small and medium-sized enterprises (SMEs) and marking their eligible

and non-EEA accounts by the previously proposed 3 July 2015 deadline. Therefore the PRA proposes that the rule to mark accounts held by preferred creditors (Depositor Protection 11.3) will take effect following the transition period along with the other rules in Depositor Protection Chapters 11–13, and there will be no equivalent requirement in the transitional rules to mark such accounts. The other requirement to mark accounts under Depositor Protection 48.2 and 48.3 must take effect from 3 July 2015 to meet the recast DGSD implementation deadlines.

3.4 The supervisory statement also sets out PRA expectations on what constitutes a material change to SCV systems, to ensure that minimal changes to SCV systems do not trigger SCV file and report submission requirements. The extent to which firms are expected to make progress towards final rules during the transition period is also addressed. Further details on how the PRA expects firms to comply with the information requirements in Depositor Protection Chapter 48 during the transition period is also set out in the supervisory statement.

3.5 When the final policy statement is published by the PRA in 2015 H1 in relation to CP20/14 and CP4/15, the proposed supervisory statement at Appendix 5 in this consultation will be combined with the proposed SCV supervisory statement in CP20/14 to form a final consolidated supervisory statement.

4 Depositor protection — rule waivers and modifications

4.1 This chapter explains the PRA's proposals in relation to the treatment of existing COMP rule waivers and modifications granted to firms in accordance with section 138A of FSMA. These proposals apply only in respect of waivers or modifications of COMP rules that are in respect of deposit compensation.

4.2 As explained previously, the PRA is proposing to delete all the rules in COMP that relate to deposit protection and replace them with proposed PRA Rulebook depositor protection rules. As a result, all waivers and modifications granted to firms under the COMP rules would cease to have effect by operation of law. The PRA has considered if it would be possible and appropriate to transition across waivers/modifications from existing to new rules, but as a result of maximum harmonising recast DGSD requirements and for the other reasons explained below, the PRA has judged that all existing COMP waivers/modifications will cease to have effect from 3 July 2015. The PRA would consider applications from firms for waivers/modifications to new rules in cases where the relevant statutory tests can be met.

4.3 Firms which have been granted a waiver/modification under COMP 16.1.1 in respect of the disclosure requirements applying to positive credit card balances should note that the PRA does not intend to transition this waiver/modification to proposed depositor protection rules as the regulatory framework is materially different to COMP.

4.4 Firms which have been granted a waiver/modification under COMP 16.3.1 in respect of amended disclosure wording should note that proposed Depositor Protection 14.2 requires a standard information sheet to be supplied to all depositors. As the form and content of this information sheet is prescribed by the recast DGSD, the PRA does not intend to transition this waiver/modification.

4.5 Firms which have been granted a waiver/modification under COMP 17.2.3(1) in respect of SCV requirements applying to positive credit card balances should note that the PRA does not intend to transition this waiver/modification to proposed depositor protection rules as the regulatory framework is materially different to COMP.

4.6 Firms which have been granted a waiver/modification under COMP 17.2.3(2)(c) in respect of accounts subject to sanctions imposed by governments other than the

UK government should note that proposed Depositor Protection 11.17 and 50.2 explain how accounts subject to such sanctions should be reported. The PRA considers that an equivalent waiver/modification under proposed new rules should not be needed.

4.7 Firms which have been granted a waiver/modification under COMP 17.2.8(R) in respect of calculating account balances for structured deposits should note that the proposed Depositor Protection 50.14 and 11.19 now cover how such account balances should be calculated and reported. The PRA considers that an equivalent waiver/modification under proposed new rules should not be needed.

Economic impact

4.8 The PRA considers that a proportionate approach has been taken in respect of the treatment of existing COMP rule waivers and modifications. The new rules address several issues which led to waivers/modifications being granted, such that a number of waivers/modifications will no longer be required. This includes firms with waivers or modifications related to the reporting of structured deposits and accounts subject to non-UK sanctions. The PRA expects that these firms will benefit as the new rules remove the need for firms to use the waivers/modifications process.

4.9 Where other waivers or modifications are proposed to fall away when new rules take effect, in many cases this is because the waiver is no longer permitted under the recast DGSD (eg allowing different disclosure wording to be used). The non-continuation of such waivers/modifications may mean firms incur some small one off costs in amending processes.

4.10 A small number of individual firms with individual specific waivers/modifications, or with waivers/modifications which cannot easily be transitioned due to the changed regulatory framework, may wish to reapply for waivers/modifications where it is not proposed to transition these to the new rules. Where the rationale for the waiver/modification remains similar to before and the statutory tests continue to be met, there is likely to be limited resource costs to firms of reapplying for the waiver or modification or to the PRA in assessing them.

5 Funding of the dormant account scheme

5.1 This chapter explains the rationale for the PRA's proposed rules relating to the funding of the Dormant Account Scheme (DAS). These draft rules provide for compensation to be payable in circumstances where a dormant account fund operator is unable to meet claims against it in respect of the dormant accounts it holds. The PRA intends to delete the existing rules in COMP regarding the compensation arrangements for a dormant account fund operator and replace them with the draft Dormant Account Scheme Part of the PRA Rulebook at Appendix 2.

5.2 The Dormant Account Bank and Building Society Accounts Act 2008 (the 'Act') enables banks and building societies to transfer money held in dormant accounts to a central reclaim fund. The Act classifies bank and building society accounts as dormant when they have not had any customer initiated activity for more than 15 years. Following the introduction of the Act, one central reclaim fund has been established (the Reclaim Fund Ltd). The Reclaim Fund Ltd is an FCA authorised dormant account fund operator. It is responsible for managing dormant account money, meeting reclaims and passing on surplus money to the Big Lottery Fund for reinvestment in the community.

5.3 Under the current FSCS funding model, a dormant account fund operator falls within the deposits funding 'class' and contributes, together with deposit-takers, to compensation costs and legacy costs that are levied on that class — although they receive a significant discount on their contributions.

Proposals

5.4 The PRA's proposed rules create a separate FSCS funding class for DAS members. DAS members would include DGS members and dormant account fund operators. Any costs arising from the failure of a dormant account fund operator would therefore be funded by deposit-takers (with the exception of credit unions — see below) in addition to their DGS funding requirements and any other dormant account fund operators. The PRA considers this is justified as a dormant account fund operator has a closer affinity to deposit-takers than the other PRA classes.⁽¹⁾ As deposit-takers would be required to contribute to the default of a dormant account fund operator under the existing rules, the PRA does not consider that the proposed new dormant account funding class represents a significant policy change. The PRA proposes that there should not be corresponding funding of DGS

members' compensation costs by a dormant account fund operator given the limited nature of a dormant account operator as set out in the Act (see below).

5.5 Credit unions are not able to transfer dormant accounts to the dormant account fund operator under the Act. The PRA therefore proposes that credit unions will not be required to contribute to the default of a dormant account fund operator. This is a change from the existing rules which require credit unions to contribute to such costs along with other deposit-takers.

5.6 The PRA proposes a new requirement on a dormant account fund operator to provide, on request by the FSCS or the PRA, information which it holds and is necessary to enable the FSCS to prepare for the payment of compensation to the FSCS (see Dormant Account Scheme 27). Further detail with regard to the PRA's expectations in this respect is set out in the Dormant Account Scheme Supervisory Statement in Appendix 7.

5.7 In order for PRA compensation rules to be more closely aligned with the scope of the recast DGSD, the PRA intends to locate the Dormant Account Scheme rules in a separate part of the Rulebook from the Deposit Guarantee Scheme rules.

Economic impact

5.8 A dormant account fund operator fails if it is unable or likely to be unable to meet the claims against it in respect of the dormant accounts which it holds. Since these dormant accounts will have been inactive for more than 15 years in order to be classified as 'dormant', there is a very low probability of claims. The PRA expects that a dormant account fund operator is likely to be operationally cautious and set aside substantial provisions each year. For example since inception The Reclaim Fund Ltd⁽²⁾ has set aside over £250 million on a dormant fund base of £630m.⁽³⁾ There remains a large standing liquid fund available in case higher than expected claims are made in respect of the dormant accounts. Due to the nature of the fund, the probability of failure is expected to be relatively low.

(1) Life and Pensions Provision and General Insurance Provision.

(2) The only reclaim fund currently in operation.

(3) Taken from the Reclaim Fund annual accounts in 2011/12, 2012/13 and 2013/14.

5.9 Under the PRA's proposed rules, the failure of a dormant account fund operator will impose costs on members of the deposits class (with the exception of credit unions), whereas the dormant account fund operator will not bear the corresponding costs of failure of a member of the deposits class. Given dormant account fund operators receive a significant discount on levy contributions under the PRA's existing rules, the impact of this change in approach is not expected to be material.

5.10 The change in approach with respect to credit unions will mean that, in the event of failure of the dormant account fund operator, banks and building societies will contribute more of the corresponding costs as credit unions will not contribute. The impact of change is not expected to be material as credit unions' proportionate contribution of FSCS levies is relatively

low in comparison to that of banks and building societies and the probability of failure of the dormant account fund operator is expected to be relatively low.

5.11 The proposed new rule requiring a dormant account fund operator to provide information it holds to the FSCS following a request may incur some one-off costs to dormant account fund operators. However, the PRA does not expect that the costs will be material as the dormant account fund operator should not need to gather additional information from dormant account holders in order to meet this requirement or make systems changes. This cost would only be incurred in the event of a request from the PRA or the FSCS, which may be unlikely given that the probability of failure is expected to be relatively low.

6 Policyholder protection — transitional rules and schedules

6.1 This chapter sets out the rationale for the PRA's proposals regarding the new transitional rule and the approach to the existing transitional rules and schedules in COMP and FEES 6 (and certain FEES 1 and 2 rules, in relation to FEES 6) on policyholder protection. The proposals can be found in the proposed Policyholder Protection Part of the PRA Rulebook set out in Appendix 3.

New transitional rules

6.2 The PRA proposes the introduction of two new transitional rules. These rules clarify: what circumstances, actions or measures will continue to be dealt with under the current COMP and FEES 6 rules; and, from 3 July 2015, what circumstances, actions or measures will be dealt with under the proposed Policyholder Protection Part rules. The proposed transitional rules are set out in Appendix 3.

Approach to COMP transitional provisions and schedules

6.3 The PRA has reviewed the existing PRA Handbook transitional provisions set out in Transitional Provisions Table 1 (COMP TP1) of COMP. Where the transitional provision is still relevant because it relates to a COMP rule that is being carried over to the proposed Policyholder Protection Part, the PRA proposes that the transitional provision is carried over in amended or unamended form. The proposed transitional rules are set out in Appendix 3.

6.4 The PRA has also reviewed COMP Schedules 1–6 which set out certain notification requirements (among others) applicable to the FSCS. Some of these requirements repeat rules in the existing COMP sourcebook which are replicated in the proposed Policyholder Protection Part and have been consulted on (see CP21/14), while others repeat rules set out elsewhere in the PRA Handbook or Rulebook and others are

not applicable to policyholder protection. As such these Schedules will not be replicated in the Policyholder Protection Part.

Approach to FEES transitional provisions and schedules

6.5 The PRA has reviewed the existing PRA Handbook transitional provisions set out in the Transitional Provisions and Schedules section of FEES relating to FEES 6. Where the transitional provision is still relevant because it relates to a FEES 6 rule that is being carried over to the proposed Policyholder Protection Part, it is proposed the transitional provision be carried over in amended or unamended form. The proposed transitional rules are set out in Appendix 3.

6.6 The PRA has also reviewed FEES Schedule 6, which refers to the PRA's ability to waive all rules in FEES. The PRA does not intend to take Schedule 6 forward as it merely restates the statutory position under section 138A of FSMA.

Economic Impact

6.7 The proposed changes to the existing transitional provisions and schedules in the PRA Handbook are a direct result of the changes that will be imposed by the implementation of the proposed Policyholder Protection Part of the PRA Rulebook. The PRA set out the costs and benefits of implementing the proposed Policyholder Protection Part in CP21/14. The two new transitional rules benefit firms as they clarify what circumstances, actions or measures will be dealt with under the current rules and from 3 July 2015, what circumstances, actions or measures will be dealt with under the proposed Policyholder Protection part rules. Overall the PRA does not anticipate any material additional costs or benefits as a result of the changes set out in this consultation.

7 Consequential and minor amendments

7.1 This chapter explains the proposals relating to the amendment of existing parts of the PRA Handbook as a result of the proposed Depositor Protection and the Policyholder Protection rule changes.

Approach to the handbook

7.2 The creation of the proposed Deposit Protection Part and Policyholder Protection Part rules of the PRA Rulebook requires a number of consequential changes to be made to the existing PRA Handbook. The proposed amendments are administrative and do not reflect a change in policy. Most incorporate or update cross-references to the FSCS and DGSD, and remove obsolete references.

7.3 The proposed PRA Handbook rule changes are outlined in Appendix 4.

Economic Impact

7.4 The proposed consequential changes to the PRA Handbook are a direct result of the changes following the creation of the proposed Depositor Protection and Policyholder Protection Parts of the PRA Rulebook. The PRA set out the costs and benefits of creating the proposed rules in the Depositor Protection Part in CP20/14 and the Policyholder Protection Part in CP21/14. The PRA does not believe these consequential changes will add any material costs or benefits to those set out in CP20/14 or CP21/14.

Appendices

-
- 1 PRA Rulebook: Depositor Protection

 - 2 PRA Rulebook: Dormant Account Scheme

 - 3 PRA Rulebook: Policyholder Protection

 - 4 PRA Handbook

 - 5 Draft Depositor Protection Supervisory Statement — Marking eligible deposits and accounts, and transitional issues

 - 6 Draft Statement of Policy — Dormant Account Scheme

 - 7 Draft Supervisory Statement — Dormant Account Scheme

**PRA RULEBOOK: CRR FIRMS NON CRR FIRMS NON AUTHORISED PERSONS:
DEPOSITOR PROTECTION INSTRUMENT [YEAR]¹**

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 213 (The compensation scheme);
 - (4) section 214 (General);
 - (5) section 215 (Rights of the scheme on insolvency); and
 - (6) section 218A (Regulators power to require information).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rulemaking instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: CRR Firms Non CRR Firms Non Authorised Persons: Depositor Protection Instrument 2015

- D. The PRA makes the rules in Annex A to this instrument.
- E. With effect from [DATE 2016], the PRA deletes rule 9.3(2), 9.3(3) and the rules in Chapters 48 to 52 in Annex A.
- F. With effect from 1 January 2024, the PRA deletes rule 9.3(1) in Annex A.

Commencement

- G. With the exception of Chapters 11 to 13, the rules in Annex A come into force on [DATE].
- H. The rules in Chapters 11 to 13 in Annex A come into force on [DATE 2016].

Citation

- I. This instrument may be cited as the PRA Rulebook: CRR Firms Non CRR Firms Non Authorised Persons: Depositor Protection Instrument 2015.

By order of the Board of the Prudential Regulation Authority
[DATE]

¹ This instrument will be used for rules covered by this CP and those in CP 20/14.

Annex A

In this Annex, text that changes the instrument consulted upon in CP 20/14 is underlined and deleted text is struck through.

Part

DEPOSITOR PROTECTION

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. ELIGIBILITY**
- 3. CIRCUMSTANCES IN WHICH THE FSCS PAYS COMPENSATION IN RESPECT OF ELIGIBLE DEPOSITS**
- 4. LIMITS ON COMPENSATION PAYABLE**
- 5. CALCULATING COMPENSATION**
- 6. PAYING COMPENSATION**
- 7. FORM AND METHOD OF COMPENSATION**
- 8. CURRENCY OF COMPENSATION**
- 9. TIME LIMITS**
- 10. TEMPORARY HIGH BALANCES**
- 11. CORE SYSTEMS AND INFORMATION REQUIREMENTS**
- 12. SINGLE CUSTOMER VIEW AND EXCLUSIONS FILE REPORTING**
- 13. CONTINUITY OF ACCESS REPORTING**
- 14. FIRMS' DISCLOSURE OBLIGATIONS - INFORMATION SHEET**
- 15. FIRMS' DISCLOSURE OBLIGATIONS - STATEMENTS OF ACCOUNT**
- 16. FIRMS' DISCLOSURE OBLIGATIONS - EXCLUSIONS FROM DEPOSIT GUARANTEE SCHEME PROTECTION**
- 17. REFERENCES TO THE DEPOSIT GUARANTEE SCHEME IN ADVERTISING**
- 18. DISCLOSURE OF TRANSFER OF DEPOSITS**
- 19. DISCLOSURE OF WITHDRAWAL OR EXCLUSION FROM THE DEPOSIT GUARANTEE SCHEME**
- 20. METHOD OF COMMUNICATION**
- 21. NOTIFICATION REQUIREMENTS ON TRANSFER TO A NON-UK SCHEME**
- 22. DEPOSIT COMPENSATION INFORMATION - BRANCHES AND WEBSITES**
- 23. DUTIES OF THE FSCS**
- 24. CLAIMS AGAINST THE FSCS AND CHALLENGING FSCS DECISIONS**
- 25. CONFIDENTIALITY, INFORMATION SHARING AND CO-OPERATION**
- 26. PAYMENTS IN RESPECT OF UK BRANCHES OF INCOMING FIRMS**
- 27. SUBROGATION**
- 28. DUTIES ON FSCS TO PURSUE RECOVERIES**
- 29. RECOVERIES OF ELIGIBLE DEPOSITS - RETURN OF SURPLUS TO COMPENSATION RECIPIENT**
- 30. FUNDING - AVAILABLE FINANCIAL MEANS**

- 31. FUNDING - USE OF EXISTING MANDATORY CONTRIBUTIONS
- 32. FUNDING - FSCS'S POWER TO LEVY AND LIMITS ON LEVIES
- 33. FUNDING - DGS COMPENSATION COSTS LEVY
- 34. FUNDING - DGS MANAGEMENT EXPENSES LEVY
- 35. FUNDING - LEGACY COSTS LEVY
- 36. FUNDING - MANAGEMENT OF FUNDS LEVIED
- 37. FUNDING - ADJUSTMENTS TO LEVY SHARES
- 38. FUNDING - BUSINESS ACQUISITIONS FROM DGS MEMBERS
- 39. FUNDING - BUSINESS ACQUISITIONS FROM NON-DGS MEMBERS
- 40. FUNDING - MANAGEMENT EXPENSES
- 41. FUNDING - DGS COMPENSATION COSTS
- 42. FUNDING - CLASS A TARIFF BASE CALCULATION
- 43. FUNDING - REPORTING REQUIREMENTS
- 44. FUNDING - OBLIGATION TO PAY
- 45. FUNDING - OVERPAYMENTS AND DEFERRAL OF PAYMENTS
- 46. FUNDING - PAYMENT OF LEVIES
- 47. FUNDING - TRANSFER OF LEVIES
- 48. TRANSITIONAL PROVISIONS – MARKING AND INFORMATION REQUIREMENTS
- 49. TRANSITIONAL PROVISIONS – MARKING EFFECTIVENESS REPORT
- 50. TRANSITIONAL PROVISIONS - SINGLE CUSTOMER VIEW
- 51. TRANSITIONAL PROVISIONS – SINGLE CUSTOMER VIEW EFFECTIVENESS REPORT
- 52. TRANSITIONAL PROVISIONS – CLASS A TARIFF BASE CALCULATION
- 53. TRANSITIONAL PROVISIONS – APPLICATION OF COMP

ANNEX 1 – INFORMATION SHEET (CHAPTER 14)

ANNEX 2 – CONTENT OF COMPENSATION STICKERS AND POSTERS (CHAPTER 22)

Links

1 APPLICATION AND DEFINITIONS

...

1.4 Unless otherwise stated, in this Part the following definitions shall apply:

...

9 TIME LIMITS

...

9.3 (1) From 1 June 2016 until 31 December 2023, in cases to which 9.2 applies, where the FSCS cannot pay compensation within seven *business days* from the *compensation date*, it shall, where it has sufficient information from the *depositor* or from the *firm*, ensure that within five *business days* of receipt of a request from a *depositor*,

(a) the *depositor* who is an individual, has access to an appropriate amount of their *covered deposits* to cover the cost of living; and

(b) the *depositor* which is not a *large company* has access to an appropriate amount of their *covered deposits* to cover necessary business expenses.

[Note: Art 8(4) of the DGSD]

(2) From 3 July 2015 until [DATE], the FSCS shall, where it has sufficient information from the *depositor* or from the *firm*, ensure that a *depositor* which is a *large company* has access to their *covered deposits* within fifteen business days of receipt of a request from the *depositor*.

(3) In 9.3 the following definition shall apply:

large company

means a *body corporate* which does not qualify as a small company under section 382 of the Companies Act 2006.

...

48 TRANSITIONAL PROVISIONS – MARKING AND INFORMATION REQUIREMENTS

48.1 This Chapter does not apply to the FSCS.

48.2 A *firm* must mark *eligible deposits* in a way that allows for the immediate identification of such deposits.

[Note: Art. 5(4) of the DGSD]

48.3 A firm must mark accounts (including client accounts) which are held on behalf of beneficiaries and which contain or may contain *eligible deposits* in a way that allows for immediate identification of such accounts.

48.4 A firm must be able to provide the FSCS with the aggregated amount of *eligible deposits* of every depositor.

48.5 Upon receipt of a request by the FSCS, a firm must provide the information in 48.4 to the FSCS.

[Note: Art 7(6) of the DGSD]

48.6 A firm must be able to provide the FSCS with all information necessary to enable the FSCS to prepare for the payment of compensation in accordance with this Part.

[Note: Art 4(8) and 8(6) of the DGSD]

48.7 Upon receipt of a request by the FSCS, a firm must provide the information in 48.6 so as to enable the FSCS to prepare for and pay compensation in accordance with the time limit applicable to the FSCS under Chapter 9.

[Note: Art 4(8) and 8(6) of the DGSD]

48.8 A firm must take reasonable steps to ensure the accuracy of the data it holds to satisfy the requirements of this Chapter.

49 TRANSITIONAL PROVISIONS – MARKING EFFECTIVENESS REPORT

49.1 This Chapter does not apply to the FSCS.

49.2 In this Chapter, the following definition shall apply:

marking effectiveness report

means a report from a firm's governing body confirming that the firm satisfies the *marking requirements* and containing the information required by 49.5; and

marking requirements

means the requirements in 48.2 and 48.3..

49.3 A firm must provide the PRA with a *marking effectiveness report*:

(1) within three months of receiving a *Part 4A permission to accept deposits*; and

(2) within three months of a material change to the firm's systems or processes to satisfy the *marking requirements*.

49.4 A firm must provide a *marking effectiveness report* to the PRA or FSCS promptly upon request by the PRA or FSCS.

49.5 A firm's *marking effectiveness report* must contain:

(1) a description of:

- (a) the firm's systems to satisfy the *marking requirements* and how they have been implemented (the *firm's* systems include any manual systems used by the *firm* and any code or keys used internally by the *firm* to mark *eligible deposits* and accounts which are held on behalf of beneficiaries and which contain or may contain *eligible deposits*);
 - (b) the testing undertaken with respect to the robustness of the *firm's* systems;
 - (c) the number of marked accounts that contain *eligible deposits*;
 - (d) the *firm's* plan for the ongoing maintenance of its systems;
 - (e) how the *firm's governing body* will ensure that they remain satisfied that the *firm's* systems continue to satisfy the *marking requirements*; and
 - (f) any other factors or dependencies relevant to the design and operation of the *firm's* systems or to an assessment of whether the systems satisfy the *marking requirements*;
- (2) a statement signed on behalf of the *firm's governing body* confirming that the *firm* satisfies the *marking requirements*;
- (3) a statement of whether the firm's marking effectiveness report has been reviewed by external auditors, and if so, a statement of the findings of that review; and
- (4) a statement of whether there has been a material change to the *firm's* systems since the date of the *firm's* previous *marking effectiveness report*.

50 TRANSITIONAL PROVISIONS – SINGLE CUSTOMER VIEW

50.1 This Chapter does not apply to the *FSCS*.

50.2 This Chapter does not apply in relation to an *eligible deposit*:

- (1) of a *large company*;
- (2) contained in an account that is *not active*; or
- (3) to which a *depositor* is not absolutely entitled.

50.3 In this Chapter, the following definitions shall apply:

large company

means a *body corporate* which does not qualify as a small company under section 382 of the Companies Act 2006

single customer view

means a single, consistent view of a *depositor's* aggregate *eligible deposits* with a *firm* which contains the information required by 50.11;

50.4 A *firm* must be able to provide to the *PRA* or the *FSCS* its *single customer views* within 72 hours of a request being made by the *PRA* or *FSCS*.

- 50.5 A firm must be able to provide the *single customer view* by secure electronic transmission and in a format which is readily transferable to and compatible with the FSCS's systems.
- 50.6 A firm must ensure that the electronic systems which produce the *single customer view* must:
- (1) be capable of automatically identifying the amount of *covered deposits* payable to each *depositor*; and
 - (2) include a check facility which allows the *firm* to identify any portion of an *eligible deposit* that exceeds the coverage levels set out in Chapter 4.
- 50.7 A firm that operates fewer than 5,000 accounts which contain *eligible deposits* on 3 July 2015 may:
- (1) elect that 50.5 and 50.6 do not apply; and
 - (2) revoke any such election.
- 50.8 A firm that revokes an election, may not make an further election under 50.7.
- 50.9 A firm that operates 5,000 or more accounts which contain *eligible deposits* on 3 July 2015 may not make an election under 50.7 if, on a future date, it operates less than 5,000 accounts which contain *eligible deposits*.
- 50.10 The election or revocation of the election takes effect only where the *firm* provides written notice to the *PRA* of the election or revocation.
- 50.11 A firm must ensure that a *single customer view* contains all the information set out in the table below.

Field identifier	Field descriptor
<u>Customer details</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>Title</u>	<u>Title [if applicable and where held by the <i>firm</i>]</u>
<u>Customer 1st Forename</u>	<u>1st Forename [if applicable]</u>
<u>Customer 2nd Forename</u>	<u>2nd Forename [if applicable and where held by the <i>firm</i>]</u>
<u>Customer 3rd Forename</u>	<u>3rd Forename [if applicable and where held by the <i>firm</i>]</u>
<u>Customer Surname [or company name or name of account holder]</u>	<u>Surname [or company name or name of account holder]³</u>
<u>Previous Name</u>	<u>Any former name of account holder [where held by the <i>firm</i>]</u>
<u>National Insurance number</u>	<u>National Insurance number, where held by the <i>firm</i></u>
<u>Contact details</u>	
<u>EITHER Format A</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>House number</u>	<u>House number/Premise name</u>
<u>Street</u>	<u>Street</u>
<u>Locality</u>	<u>Locality [where held by the <i>firm</i>]</u>

<u>Field identifier</u>	<u>Field descriptor</u>
<u>County</u>	<u>County [where held by the <i>firm</i>]</u>
<u>Postcode</u>	<u>Postcode [where used by a country]</u>
<u>Country</u>	<u>Country [for countries outside the <i>UK</i>]</u>
<u>OR Format B</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>ADDRESS LINE 1</u>	<u>As required</u>
<u>ADDRESS LINE 2</u>	<u>As required</u>
<u>ADDRESS LINE 3</u>	<u>As required</u>
<u>ADDRESS LINE 4</u>	<u>As required</u>
<u>ADDRESS LINE 5</u>	<u>As required</u>
<u>ADDRESS LINE 6</u>	<u>As required</u>
<u>Postcode</u>	<u>Postcode [where used by a country]</u>
<u>Country</u>	<u>Country [for countries outside the <i>UK</i>]</u>
<u>Details of account(s)</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>Account title</u>	<u>Surname, first name, any other initials or middle name identifier or company name or name of account holder</u>
<u>Account number</u>	<u>Unique number for this account</u>
<u>Product type</u>	<u>Type of product or service - instant access/term</u>
<u>Account holder indicator</u>	<u>This field applies to joint or multiple accounts. It must identify whether the customer is the primary account holder or secondary account holder (or other such status)</u>
<u>Account status code</u>	<u>Active accounts only to be included</u>
<u>Account balance</u>	<u>Account balance including any interest or premium attributable, at end of business on:</u> (a) <u>the <i>compensation date</i>:</u> <u>or</u> (b) <u>the date of request from the <i>FSCS</i> or the <i>PRA</i>, as applicable</u>
<u>Aggregate balance</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>Aggregate balance across all accounts</u>	<u>Account balance including any interest or premium attributable, at end of business on:</u> (a) <u>the <i>compensation date</i>:</u> <u>or</u> (b) <u>the date of request from the <i>PRA</i> or <i>FSCS</i> , as applicable</u>
<u>Compensatable amount</u>	<u>The amount to be compensated subject to the limit check that must be performed by the <i>firm</i> under 50.6(2) (this could be lower than the aggregate balance across all accounts if this exceeds the coverage levels</u>

Field identifier	Field descriptor
	<p>set out in Chapter 4.</p> <p>For beneficiary accounts, it may not be possible to calculate this amount and this field may be left blank</p>

- 50.12 Where a depositor holds more than one account, the section in the single customer view which sets out “Details of account(s)” must be completed for each account held.
- 50.13 The amount inserted into the single customer view as the account balance and aggregate balance across all accounts must be the total of principal plus any interest or premium attributable up to the compensation date (or in the absence of a compensation date, the date on which the FSCS or PRA makes a request to the firm to provide the single customer view).
- 50.14 If the account is a structured deposit account where the return cannot be calculated until the maturity date because the return is based on growth of an index as determined at a future date, the figure inserted into the single customer view as the account balance must be the total of the principal, any attributable contractual minimum return and any interest accrued prior to the product start date.
- 50.15 A firm must take reasonable steps to ensure the accuracy of the data it holds to satisfy the requirements of this Chapter.

51 TRANSITIONAL PROVISIONS – SINGLE CUSTOMER VIEW EFFECTIVENESS REPORT

51.1 This Chapter does not apply in relation to an eligible deposit:

- (1) of a large company;
- (2) contained in an account that is not active; or
- (3) contained in an account that holds funds to which a depositor is not absolutely entitled.

51.2 In this Chapter, the following definitions shall apply:

large company

means a body corporate which does not qualify as a small company under section 382 of the Companies Act 2006

SCV effectiveness report

means a report from a firm’s governing body confirming that the firm’s systems satisfy the requirements in Chapter 50 with respect to single customer views and containing the information required by 51.5.

single customer view

means a single, consistent view of a depositor’s aggregate eligible deposits with a firm which contains the information required by 50.11;

- 51.3 A firm must provide the PRA with an SCV effectiveness report:
- (1) within three months of receiving a Part 4A permission to accept deposits; and
 - (2) within three months of a material change to the firm's systems and processes to satisfy the requirements in Chapter 50 with respect to single customer views.
- 51.4 A firm must provide a SCV effectiveness report to the PRA or FSCS promptly upon request by the PRA or FSCS.
- 51.5 A firm's SCV effectiveness report must contain, to the extent applicable:
- (1) a description of:
 - (a) the firm's systems to satisfy the requirements in Chapter 50 with respect to single customer views and how they have been implemented (the firm's systems include any manual systems used by the firm and any code or keys used internally by the firm so that the FSCS can easily identify eligible deposits and accounts which are held on behalf of beneficiaries and which contain or may contain eligible deposits);
 - (b) how the firm proposes to transfer to the PRA or FSCS a single customer view for each depositor with eligible deposits including specifying the transfer method and format;
 - (c) the testing undertaken with respect to the robustness of the firm's systems (including information on preparation of the single customer views in stressed scenarios, frequency of testing and where relevant, reconciliation with core systems);
 - (d) the number of single customer views;
 - (e) the firm's plan for the ongoing maintenance of its systems;
 - (f) how the firm's governing body will ensure that they remain satisfied that the firm's systems continue to satisfy the requirements in Chapter 50 with respect to single customer views;
 - (g) how the check facility required by 50.6(2) is applied;
 - (h) any other factors relevant to the design of the firm's systems or to an assessment of whether the systems satisfy the requirements in Chapter 50 with respect to single customer views;
 - (i) any dependencies in creating the single customer views (such as reliance on group systems); and
 - (j) the procedures and controls that a firm has in place regarding the production of the single customer views (such as secure storage and an indication of how key person dependencies are managed);
 - (2) a statement signed on behalf of the firm's governing body confirming that the firm satisfies the requirements in Chapter 50 with respect to single customer views;
 - (3) the date when the firm's systems last produced:
 - (a) a single customer view for each depositor; and
 - (b) a sample of single customer views and the sample size;
 - (4) a statement of whether the firm's SCV effectiveness report has been reviewed by external auditors, and if so, a statement of the findings of that review; and
 - (5) a statement of whether there has been a material change to the systems

since the date of the *firm's* previous *SCV effectiveness report*.

51.6 A *firm* to which 50.5 and 50.6 applies must provide the *FSCS* with a representative sample of 10% of its *single customer views* or 10,000 of its *single customer views* (whichever is the smaller number) within:

- (1) three months of receiving a *Part 4A permission to accept deposits*; and
- (2) three months of a material change in the *firm's* systems or processes to satisfy the requirements in Chapter 50 with respect to *single customer views*.

51.7 The representative sample must include all types of account which contain *eligible deposits* (where the *firm* operates under more than one trading name the sample must include all types of account which contain *eligible deposits* for each trading name).

51.8 The *FSCS* must advise the *PRA*, within six months of receiving the information required by 51.6 whether the information provided by the *firm's* systems to satisfy the requirements in Chapter 50 with respect to *single customer views* is suitable to be submitted to the *FSCS* and is compatible with the *FSCS's* systems.

52. TRANSITIONAL PROVISIONS – CLASS A TARIFF BASE CALCULATION

52.1 In this Chapter, the following definition shall apply:

large company

means a *body corporate* which does not qualify as a small company under section 382 of the Companies Act 2006

52.2 Until [DATE 2016]:

- (1) the *class A tariff base* in 42.1 excludes from *covered deposits* any *eligible deposit* of a *large company*; and
- (2) in Chapter 42, a reference to *single customer view* is a reference to a *single customer view* compiled in accordance with the requirements in Chapter 50 and which contains the information set out in 50.11 and the definitions of *single customer view* and *SCV requirements* in 1.4 are modified accordingly.

53. TRANSITIONAL PROVISIONS – APPLICATION OF COMP

53.1 In this Chapter the following definitions shall apply:

COMP

means the Compensation Sourcebook of the *PRA Handbook* in force immediately before 3 July 2015

relevant person

has the definition in the *Glossary* in force immediately before 3 July 2015

in default

has the definition in the *Glossary* in force immediately before 3 July 2015

protected deposit

has the definition in the *Glossary* in force immediately before 3 July 2015

claim

has the definition in the *Glossary* in force immediately before July 2015

53.2 The rules in *COMP* continue to apply to the *FSCS* in relation to a *protected deposit* claim in respect of a *relevant person in default* before 3 July 2015.

**PRA RULEBOOK: CRR FIRMS NON CRR FIRMS NON AUTHORISED PERSONS:
DORMANT ACCOUNT SCHEME INSTRUMENT [YEAR]**

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 213 (The compensation scheme);
 - (2) section 214 (General); and
 - (3) section 218A (Regulators power to require information)
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

**PRA Rulebook CRR Firms, Non CRR Firms and Non Authorised Persons: Dormant
Account Scheme Instrument [Year]**

- D. The PRA makes the rules in Annex A to this instrument.

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms Non CRR Firms Non Authorised Persons: Dormant Account Scheme Instrument 2015

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

In this Annex, the text is all new and is not underlined.

Part

DORMANT ACCOUNT SCHEME

Chapter content

1. APPLICATION AND DEFINITIONS
2. ELIGIBILITY
3. DORMANT ACCOUNT FUND OPERATORS IN DEFAULT
4. THE QUALIFYING CONDITIONS FOR PAYING COMPENSATION
5. LIMITS ON COMPENSATION PAYABLE
6. PAYING COMPENSATION
7. FORM AND METHOD OF COMPENSATION
8. CALCULATING COMPENSATION
9. DUTIES OF THE FSCS
10. CLAIMS AGAINST THE FSCS AND CHALLENGING FSCS DECISIONS
11. ASSIGNMENT OF RIGHTS
12. SUBROGATION
13. RECOVERIES
14. REJECTION OF APPLICATION AND WITHDRAWAL OF OFFER
15. TIME LIMITS AND POSTPONING PAYMENT
16. FUNDING - FSCS'S POWER TO LEVY AND LIMITS ON LEVIES
17. FUNDING - MANAGEMENT OF FUNDS LEVIED
18. FUNDING - ADJUSTMENTS TO LEVY SHARES
19. FUNDING - BUSINESS ACQUISITIONS FROM DAS MEMBERS
20. FUNDING - BUSINESS ACQUISITIONS FROM NON-DAS MEMBERS
21. FUNDING - MANAGEMENT EXPENSES
22. FUNDING - DAS COMPENSATION COSTS
23. FUNDING - REPORTING REQUIREMENTS
24. FUNDING - OBLIGATION TO PAY
25. FUNDING - OVERPAYMENTS, DEFERRAL AND EXEMPTION
26. FUNDING - PAYMENT OF LEVIES
27. INFORMATION REQUIREMENTS

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) the *FSCS*;
- (2) a *dormant account fund operator*;
- (3) *UK banks*;
- (4) *building societies*; and
- (5) an *overseas firm* that:
 - (a) is not an *incoming firm*; and
 - (b) has a *Part 4A permission* that includes *accepting deposits*.

1.2 In this Part, the following definitions shall apply:

base costs

means *management expenses* which are not attributable to any particular *class*.

base costs levy

means a levy, forming part of the *management expenses levy*, to meet the *base costs* in the financial year of the *compensation scheme* to which the levy relates.

claim

means a valid claim made in respect of a civil liability owed by a *dormant account operator* to the claimant.

class

one of the classes to which *FSCS* allocates levies in accordance with the rules of the *compensation scheme*.

class J

means the *class* which includes *DAS members*.

class J tariff base

means *dormant accounts* multiplied by 0.2 as at *31 December*.

compensation date

means the date on which a *dormant account operator* is determined to be *in default*.

compensation scheme

means the Financial Services Compensation Scheme established under section 213 of *FSMA*.

DAS base costs levy

means a *base costs levy* imposed by the *FSCS* on *DAS members*.

DAS compensation costs

means the costs incurred in paying compensation under the *dormant account scheme* (including the costs of paying interest, principal and other costs of borrowing to pay such costs).

DAS compensation costs levy

means a levy imposed by the *FSCS* on *DAS members* to meet *DAS compensation costs*.

DAS levy

means a *DAS compensation costs levy* or a *DAS management expenses levy*.

DAS management expenses levy

a levy imposed by the *FSCS* on *DAS members* to meet *management expenses* and which is made up of one or more of a *DAS base costs levy* and a *DAS specific costs levy*.

DAS member

means:

- (1) a *dormant account fund operator* for claims against which the *dormant account scheme* provides cover;
- (2) a *UK bank*;
- (3) a *building society*; or
- (4) an overseas firm that is not an *incoming firm* and has a *part 4A permission* that includes *accepting deposits*.

DAS specific costs

means *management expenses* attributable to the *dormant account scheme* other than *base costs*.

DAS specific costs levy

means a levy, forming part of the *DAS management expenses levy*, to meet the *DAS specific costs* in the financial year of the *dormant account scheme* to which the levy relates.

dormant account

has the meaning given in section 10 of the Dormant Bank and Building Society Accounts Act 2008.

DGS member

has the meaning given in Depositor Protection 1.4.¹

depositor

has the meaning given in Depositor Protection 1.4.²

dormant account fund operator

a person with a *Part 4A permission* for operating a dormant account fund.

dormant account scheme

means the *compensation scheme* for compensating persons in respect of *protected dormant accounts*.

eligible claimant

means a claimant whose *dormant account*:

- (1) was transferred to a *dormant account fund operator* which accepted the liability to repay it; and
- (2) would be an *eligible deposit* if it were held by a *DGS member*.

eligible deposit

has the meaning given in Depositor Protection 1.4.³

in default

describes the status of a *dormant account fund operator* following a determination made under 3.3.

micro, small and medium-sized enterprises

has the meaning given in Depositor Protection 1.4.⁴

money purchase benefits

has the meaning given in Depositor Protection 1.4.⁵

occupational pension scheme

has the meaning given in Depositor Protection 1.4.⁶

operating a dormant account fund

means any of the *regulated activities* specified in article 63N(1)(a) or article 63N(1)(b) of the *Regulated Activities Order*.

¹ This definition is set out in the draft Depositor Protection Part (CP20/14)

² This definition is set out in the draft Depositor Protection Part (CP20/14)

³ This definition is set out in the draft Depositor Protection Part (CP20/14)

⁴ This definition is set out in the draft Depositor Protection Part (CP20/14)

⁵ This definition is set out in the draft Depositor Protection Part (CP20/14)

⁶ This definition is set out in the draft Depositor Protection Part (CP20/14)

personal pension scheme

has the meaning given in Depositor Protection 1.4.⁷

protected dormant account

means a *dormant account* which is covered by the *dormant account scheme*.

protected dormant account claim

means a *claim* in respect of a *protected dormant account*.

small self-administered scheme

has the meaning given in Depositor Protection 1.4.⁸

stakeholder pension scheme

has the meaning given in Depositor Protection 1.4.⁹

statement of business

means the statement of business required under 23.2.

2 ELIGIBILITY

- 2.1 This Chapter applies only to the *FSCS*.
- 2.2 If not an *eligible deposit*, a *dormant account* is a *protected dormant account* only if:
- (1) the liability for it has been transferred to a *dormant account fund operator*; and
 - (2) it would be an *eligible deposit* if it were held by a *DGS member*.

3 DORMANT ACCOUNT FUND OPERATORS IN DEFAULT

- 3.1 This Chapter applies only to the *FSCS*.
- 3.2 The *FSCS* shall pay compensation in respect of a *protected dormant account* if it is satisfied that the *protected dormant account* is a *dormant account* of a *dormant account fund operator* who is *in default*.
- 3.3 A *dormant account fund operator* is *in default* if the *FSCS* has determined it to be *in default* under 3.4 or 3.5.
- 3.4 The *FSCS* may determine a *dormant account fund operator* to be *in default* when it is, in the opinion of the *FSCS* or the *PRA*:
- (1) unable to satisfy *protected dormant account claims* against it; or
 - (2) likely to be unable to satisfy *protected dormant account claims* against it.

⁷ This definition is set out in the proposed new Depositor Protection Part (CP20/14)

⁸ This definition is set out in the proposed new Depositor Protection Part (CP20/14)

⁹ This definition is set out in the proposed new Depositor Protection Part (CP20/14)

- 3.5 The FSCS may determine a *dormant account fund operator* to be *in default* if it is satisfied that a *protected dormant account claim* exists, and the *dormant account fund operator* is the subject of one or more of the following proceedings in the United Kingdom (or of equivalent or similar proceedings in another jurisdiction):
- (1) the passing of a resolution for a creditors' voluntary winding up;
 - (2) a determination by the *dormant account fund operator's* home state regulator that the *dormant account fund operator* appears unable to meet *claims* against it and has no early prospect of being able to do so;
 - (3) the appointment of a liquidator or administrator, or provisional liquidator or interim manager;
 - (3) the making of an order by a court of competent jurisdiction for the winding up of a company, the dissolution of a partnership, the administration of a company or partnership, or the bankruptcy of an individual;
 - (4) the approval of a company voluntary arrangement, a partnership voluntary arrangement, or of an individual voluntary arrangement.
- 3.6 For the purposes of sections 219(1A)(b) and (d) of *FSMA* whether a *dormant account fund operator* is unable or likely to be unable to satisfy *claims* shall be determined by reference to whether it is *in default*.

4 THE QUALIFYING CONDITIONS FOR PAYING COMPENSATION

- 4.1 This Chapter applies only to the FSCS.
- 4.2 The FSCS may, subject to 5, pay compensation to an *eligible claimant* if it is satisfied that:
- (1) an *eligible claimant* has made an application for compensation;
 - (2) the claim is a *protected dormant account claim* against a *dormant account fund operator* who is *in default*; and
 - (3) where the FSCS so requires, the claimant has assigned the whole or any part of his rights against the *dormant account fund operator* or against any third party to the FSCS, on such terms as the FSCS thinks fit.

5 LIMITS ON COMPENSATION PAYABLE

- 5.1 This Chapter applies only to the FSCS.
- 5.2 The maximum compensation sum payable for the aggregate *protected dormant accounts* of each *eligible claimant* is the same sum as the maximum compensation sum payable for aggregate *eligible deposits* of each *depositor* under Depositor Protection 4.2 but without reference to the cases in which additional compensation may be payable under Depositor Protection 4.3.
- 5.3 In the event of a default of a *dormant account fund operator*, the FSCS will pay compensation in accordance with 5.2 on the basis of the authorisation of the *DGS member* who was liable for the *eligible deposit* immediately prior to the liability being

transferred to the *dormant account fund operator* (and the relevant authorisation of the *DGS member* is the authorisation that was in place at the time that the liability was transferred).

6 PAYING COMPENSATION

- 6.1 This Chapter applies only to the *FSCS*.
- 6.2 The *FSCS* may treat *persons* who are or who may be entitled to claim compensation in respect of a *protected dormant account* as if they had done so.
- 6.3 The *FSCS* may also pay compensation (and any recovery or other amount payable by the *FSCS* to the claimant) to a *person* who makes a *protected dormant account claim* on behalf of another *person* if the *FSCS* is satisfied that the *person* on whose behalf the *claim* is made:
- (1) is or would have been an *eligible claimant*; and
 - (2) would have been paid compensation by the *FSCS* had he been able to make the *claim* himself, or to pursue his application for compensation further.
- 6.4 The *FSCS* must pay any compensation to the claimant, with the following exceptions:
- (1) where the claimant directs that any compensation be paid to another *person*, the *FSCS* may pay compensation as directed by the claimant;
 - (2) where the claimant is not absolutely entitled to the *protected dormant account*:
 - (a) if another *person* is absolutely entitled to the *protected dormant account*, that *person* is the *person* entitled to compensation in respect of the *protected dormant account*, and accordingly the *FSCS* must pay any compensation to the *person* who is absolutely entitled to the *protected dormant account*, provided that the *person* has been identified or is identifiable before the *compensation date*; and
 - (a) if no *person* is absolutely entitled to the *protected dormant account*, the *FSCS* must pay any compensation in accordance with such of 6.5 – 6.8 as applies.
- 6.5 If a *person* is:
- (1) a trustee (other than a bare trustee); or
 - (2) the operator of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*,
- the *FSCS* must treat their entitlement to compensation in this capacity as separate from their entitlement to compensation in any other capacity, as if the two entitlements were held by different *persons*.
- 6.6 If a *protected dormant account* is held:
- (1) for the trustees of a *small self-administered scheme*, an *occupational pension scheme* of *micro, small or medium sized enterprise*, or the trustee or operator

of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*, or

- (2) for one or more members of a pension scheme (or, where relevant, the beneficiary of any member) whose benefits are *money-purchase benefits*;

the *FSCS* must treat the member or members (or, where relevant, the beneficiary of any member) separately as *persons* entitled to receive compensation.

6.7 If any group of *persons* are:

- (1) co-trustees (other than bare co-trustees); or
- (2) *operators* of, or persons carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or a *personal pension scheme*,

(or any combination thereof), the *FSCS* must treat them as a single and continuing *person* distinct from the *persons* who may from time to time be the trustees, or the operators or persons winding up the relevant pension scheme.

6.8 Where the same *person* is:

- (1) trustee for different trusts or for different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*; or
- (2) the operator of, or the *person* carrying on the *regulated activity* of winding up, different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*,

the *FSCS* shall treat that person's entitlement to compensation in respect of each of these trusts or schemes as if they were entitlements of a *different person*.

6.9 Where any of the provisions of 6.5, 6.7 or 6.8 apply, the *FSCS* must try to ensure that any amount paid to:

- (1) the trustee; or
- (2) the operator of, or the person carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*

is, in each case:

- (3) for the benefit of members or beneficiaries whose own *deposits* would be *eligible deposits* if they were held by a *DGS member*; and
- (4) no more than the amount of the loss suffered by those members or beneficiaries.

6.10 Where a person holds a *protected dormant account* as the personal representative of another or on behalf of another, the *FSCS* must treat the personal representative or the person acting on behalf of another in respect of that *protected dormant account* as if they were standing in the shoes of that other *person*.

- 6.11 In applying this Chapter to *protected dormant accounts* held with a branch outside the UK of a *dormant account fund operator*, the *FSCS* must interpret references to:
- (1) *persons* entitled as personal representatives, trustees, bare trustees, *operators of pension schemes* or persons carrying on the *regulated activity* of winding up *pension schemes*; or
 - (2) persons having a joint account or joint interest in a deposit or carrying on business in partnership,
- as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity.

7 FORM AND METHOD OF COMPENSATION

- 7.1 This Chapter applies only to the *FSCS*.
- 7.2 The *FSCS* may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:
- (1) by paying the compensation (on such terms as the *FSCS* considers appropriate) to a *firm* with a *Part 4A permission to accept deposits* or an *incoming firm* or another *dormant account fund operator* which agrees to become liable to the claimant in a like sum;
 - (2) by paying compensation directly into an existing deposit account of (or for the benefit of) the claimant, or as otherwise identified by (or on behalf of) the claimant, with a *firm* (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the claimant of its intention to exercise this power); or
 - (3) (where two or more *persons* have a joint *claim*) by accepting communications from and/or paying compensation to any one of those *persons* where this is in accordance with the terms and conditions for communications and withdrawals of the relevant *eligible deposit* immediately prior to the transfer of it to the *dormant account fund operator*.
- 7.3 If the *FSCS* is satisfied that, in principle, compensation is payable in connection with any *protected dormant account claim*, but considers that immediate payment in full would not be prudent because of uncertainty as to the amount of the claimant's overall *claim*, it may decide to pay an appropriate lesser sum in final settlement, or to make payment on account.
- 7.4 The *FSCS* may also decide to make a payment on account or to pay a lesser sum in final settlement if the claimant has any reasonable prospect for recovery in respect of the *claim* from any third party or by applying for compensation to any other *person*.
- 7.5 The *FSCS* may pay interest on the compensation sum in such circumstances as it considers appropriate.

- 7.6 Interest under 7.5 is not to be taken into account when applying the limits on the compensation sum payable in respect of a *claim* for a *protected dormant account* under 5.2.
- 7.7 Where the *FSCS* considers that the conditions in 7.4 are satisfied but, in relation to a class of *claim*, in order to provide fair compensation for the generality of such *claims* it would be appropriate to take the approach in (1) and (2) rather than pay an appropriate lesser sum in final settlement or make a payment on account, it may for that class of *claim*:
- (1) receive whether by assignment, transfer or operation of law the whole or any part of a claimant's rights against the *dormant account fund operator*, or against any third party, or both on such terms as the *FSCS* thinks fit; and
 - (2) disregard the value of the rights so received in determining the claimant's overall *claim*.

8 CALCULATING COMPENSATION

- 8.1 This Chapter applies only to the *FSCS*.
- 8.2 Subject to 5.2, the amount of compensation payable to the claimant in respect of a *protected dormant account claim* is the amount of his overall net *claim* against the *dormant account fund operator* at the *compensation date*.
- Any reference in this Part to overall *claim* means "overall net *claim*".
- 8.3 The *FSCS* must take into account any payments to the claimant (including amounts recovered by the *FSCS* on behalf of the claimant) made by the *dormant account fund operator* or the *FSCS* or any other *person*, if that payment is connected with the *dormant account fund operator's* liability to the claimant in calculating the claimant's overall *claim*.
- 8.4 The *FSCS* must calculate the amount of compensation due to the claimant as soon as reasonably possible after it is satisfied that the conditions in 4.2 have been met.
- 8.5 The share of each claimant of a joint *protected dormant account* shall be considered separately in calculating the limits provided for in 5.2. In the absence of contrary provision, the joint *protected dormant account* shall be divided equally among the claimants to the nearest penny.
- 8.6 *Protected dormant accounts* to which two or more *persons* are entitled as a members of a business partnership, association or grouping of a similar nature, without legal personality, must be aggregated and treated as if made by a single claimant for the purposes of calculating the limit in 5.2.
- 8.7 Where several *persons* are jointly absolutely entitled to a beneficial interest in a *protected dormant account*, the share of each, under the arrangements subject to which the *protected dormant account* is managed, shall be considered separately in calculating the amount payable to each of them.
- 8.8 Where several *persons* are jointly absolutely entitled to a beneficial interest in a *protected dormant account* and some of them are *persons* whose own *dormant account* would not be a *protected dormant accounts*, the *FSCS* must adjust the amount of the overall *protected dormant account* to eliminate the part of it which, in

the *FSCS's* view, relates to those beneficiaries' interest in the overall *dormant account*,

- 8.9 Where a *person A* is entitled (whether as trustee or otherwise) to a *protected dormant account* made out of a clients' or other similar account containing money to which one or more persons are entitled, the *FSCS* must treat each of those other *persons*, and not *A*, as entitled to the part of the *protected dormant account* that corresponds to the proportion of the money in the account to which the other *person* is entitled.

9 DUTIES OF FSCS

- 9.1 This Chapter applies only to the *FSCS*.
- 9.2 The *FSCS* must administer the *dormant account scheme*:
- (1) in accordance with the rules in this Part and any other rules prescribed by law;
 - (2) in a manner that is procedurally fair; and
 - (3) in accordance with the *European Convention on Human Rights*.
- 9.3 The *FSCS* must publish for *claimants* on its website all necessary information:
- (1) on the operation of the *dormant account scheme*; and
 - (2) on the process, eligibility and conditions for payment of compensation.
- 9.4 The *FSCS* may agree to pay the reasonable costs of an *eligible claimant* bringing or continuing insolvency proceedings against a *dormant account fund operator* in respect of *protected dormant accounts* (whenever instituted), if the *FSCS* is satisfied that those proceedings would help it to discharge its functions under this Part.
- 9.5 The *FSCS* must have regard to the need to use its resources in the most efficient and economic way in carrying out its functions under this Part.
- 9.6 The *FSCS* must take appropriate steps to ensure that claimants are informed of how they can make a *claim* for compensation under the *dormant account scheme* as soon as a possible after the *compensation date*.

10 CLAIMS AGAINST THE FSCS AND CHALLENGING FSCS DECISIONS

- 10.1 This Chapter applies only to the *FSCS*.
- 10.2 The *FSCS* must ensure that a person who would be, or considers that they would be, affected by an *FSCS* decision in relation to compensation, has an opportunity to make representations in respect of that potential decision before it is finalised.
- 10.3 The *FSCS* must, if requested by a claimant and subject to other applicable laws, give reasons to the claimant for any decision not to pay compensation in relation to some or all of their *protected dormant accounts*.
- 10.4 The procedure established by the *FSCS* under this Chapter must satisfy the minimum requirements of procedural fairness and comply with the *European Convention on Human Rights* for the handling of any complaints of maladministration relating to any aspect of the operation of the *dormant account scheme*.

11 ASSIGNMENT OF RIGHTS

- 11.1 This Chapter applies only to the *FSCS*.
- 11.2 The *FSCS* may make any payment of compensation to a claimant in respect of a *protected dormant account* conditional on the claimant assigning the whole or any part of his rights against the *dormant account fund operator*.
- 11.3 If a claimant assigns the whole or any part of his rights against any *person* to the *FSCS* as a condition of payment, the effect of this is the sum payable in relation to the rights so assigned will be payable to the *FSCS* and not the claimant.
- 11.4 Before taking the assignment of rights from the claimant under 11.2, the *FSCS* must inform the claimant that if, after taking assignment of rights, the *FSCS* decides not to pursue recoveries using those rights, it will, if the claimant so requests in writing, reassign the assigned rights to the claimant. The *FSCS* must comply with such a request in such circumstances.

12 SUBROGATION

- 12.1 This Chapter applies only to the *FSCS*.
- 12.2 The *FSCS*'s powers in this Chapter may be used:
- (1) separately or in any combination as an alternative and in substitution for the powers and processes elsewhere in this Part;
 - (2) in relation to all or any part of a *claim* in respect of a *protected dormant account* or class of *claims* in respect of *protected dormant accounts*.
- 12.3 The *FSCS* may determine that the payment of compensation by the *FSCS* in respect of *protected dormant accounts* shall have all or any of the following effects:
- (1) the *FSCS* shall immediately and automatically be subrogated, subject to such conditions as the *FSCS* determines are appropriate, to all or any part (as determined by the *FSCS*) of the rights and claims in the *United Kingdom* and elsewhere of the claimant against the *dormant account fund operator* and/or any third party (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity the *dormant account fund operator* or third party is acting) in respect of or arising out of the *claim* in respect of which the payment of or on account of compensation was made;
 - (2) the *FSCS* may claim and take legal or any other proceedings or steps in the *United Kingdom* or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the claimant or in both names against the *dormant account fund operator* and/or any third party;
 - (3) the subrogated rights and claims conferred on the *FSCS* shall be rights of recovery and claims against the *dormant account fund operator* and/or any third party which are equivalent (including as to amount and priority and whether or not the relevant *dormant account fund operator* is insolvent) to and do not exceed the rights and claims that the claimant would have had; and/or
 - (4) such rights or obligations (as determined by the *FSCS*) as between the *dormant account fund operator* and the claimant arising out of the *protected*

dormant account claim in respect of which the payment was made shall be transferred to, and subsist between, another *dormant account fund operator* with an appropriate permission and the claimant provided that the other *dormant account fund operator* has consented (but the transferred rights and/or obligations shall be treated as existing between the *dormant account fund operator* and the *FSCS* to the extent of any subrogation, transfer or assignment for the purposes of (1) to (3) and 12.4.

- 12.4 (1) The *FSCS* may determine that, if it is necessary or desirable in conjunction with the exercise of the *FSCS*'s powers under 12.3, that the claimant shall be treated as having irrevocably and unconditionally appointed the chairman of the *FSCS* for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the *UK*, another *EEA State* or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.
- (2) The execution of any deed or document under (1) shall be as effective as if made in writing by the compensation recipient or by his agent lawfully authorised in writing or by will.
- 12.5 (1) The powers conferred on the *FSCS* in 12.3 and 12.4 to make a determination must be exercised in writing.
- (2) An instrument by which the *FSCS* makes the determination must specify the provision under which it is made, the date and time from which it takes effect and the *dormant account fund operator* and *protected dormant account claims*, parts of *protected dormant account claims* and/or classes of *protected dormant account claims* in respect of which it applies.
- (3) The *FSCS* must take appropriate steps to publish the determination as soon as possible after it is made. Such publication must be accompanied by a statement explaining the effect of 12.3.
- (4) Failure to comply with any requirement in this rule does not affect the validity of the determination.
- (5) A determination by the *FSCS* under 12.3 may be amended, remade or revoked at any time and subject to the same conditions.
- 12.6 (1) The production of a copy of a determination purporting to be made by the *FSCS* under this Chapter:
- (a) on which is endorsed a certificate, signed by a member of the *FSCS*'s staff authorised by it for that purpose; and
- (b) which contains the required statements; is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are:
- (a) that the determination was made by the *FSCS*; and
- (b) that the copy is a true copy of the determination.

(3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.

(4) A person who wishes in any legal proceedings to rely on a determination may require the FSCS to endorse a copy of the determination with a certificate of the kind mentioned in (1).

13 RECOVERIES

13.1 This Chapter applies only to the FSCS.

13.2 If the FSCS takes assignment or transfer of rights from the claimant or is otherwise subrogated to the rights of the claimant, it must pursue all and only such recoveries as it considers are likely to be both reasonably possible and cost effective to pursue.

13.3 If the FSCS decides not to pursue such recoveries and a claimant wishes to pursue those recoveries and so requests in writing, the FSCS must comply with that request and assign the rights back to the claimant.

13.4 If the FSCS makes recoveries in relation to a *protected dormant account claim* it may deduct from any recoveries paid over to the claimant under 13.5 part or all of its reasonable costs of recovery and distribution (if any).

13.5 If a claimant assigns or transfers his rights to the FSCS or a claimant's rights and claims are otherwise subrogated to the FSCS and the FSCS subsequently makes recoveries through those rights or claims, those recoveries must be paid to the claimant:

(1) to the extent that the amount recovered exceeds the amount of compensation (excluding interest paid under 7.5) received by the claimant in relation to the *protected dormant account claim*; or

(2) in circumstances where the amount recovered does not exceed the amount of compensation paid, to the extent that failure to pay any sums recovered to the claimant would leave a claimant who had promptly accepted an offer of compensation or whose rights and claims had been subrogated to the FSCS at a disadvantage relative to a claimant who had delayed accepting an offer of compensation or whose claims had not been subrogated.

13.6 The FSCS must endeavour to ensure that a claimant will not suffer disadvantage arising solely from his prompt acceptance of the FSCS's offer of compensation or from the subrogation of his rights and claims to the FSCS compared with what might have been the position had he delayed his acceptance or had his claims not been subrogated.

14 REJECTION OF APPLICATION AND WITHDRAWAL OF OFFER

14.1 This Chapter applies only to the FSCS.

14.2 If an application for compensation contains any material inaccuracy or omission, the FSCS may reject the application unless this is considered by the FSCS to be unintentional.

14.3 The FSCS must reject an application for compensation if:

(1) the *FSCS* considers that a civil claim in respect of the liability would have been defeated by a defence of limitation at the earlier of:

- (a) the date on which the *dormant account fund operator* is determined to be *in default*, and
- b) the date on which the claimant first indicates in writing that he may have a claim against the *dormant account fund operator*;

unless 14.4 applies.

14.4 The *FSCS* may withdraw any offer of compensation made to a claimant if the offer is not accepted or if it is not disputed within 90 days of the date on which the offer is made.

14.5 Where the amount of compensation offered is disputed, the *FSCS* may withdraw the offer but must consider exercising its powers to make a reduced or interim payment under 7.3 or 7.4 before doing so.

14.6 The *FSCS* may repeat any offer withdrawn under 14.4 or 14.5.

14.7 The *FSCS* must withdraw any offer of compensation if it appears to the *FSCS* that no such offer should have been made.

14.8 The *FSCS* must seek to recover any compensation paid to a claimant if it appears to the *FSCS* that no such payment should have been made, unless the *FSCS* believes on reasonable grounds that it would be unreasonable to do so, or that the costs of doing so would exceed any amount that could be recovered.

15 TIME LIMITS AND POSTPONING PAYMENT

15.1 This Chapter applies only to the *FSCS*.

15.2 The *FSCS* must pay a *protected dormant account claim* as soon as reasonably possible after:

- (1) it is satisfied that the conditions in 4.2 have been met; and
- (2) it has calculated the amount of compensation due to the claimant

and in any event within three months of that date, unless the *PRA* has granted the *FSCS* an extension, in which case payment must be made no later than six months from that date.

15.3 The *FSCS* may postpone paying compensation if the claimant has been charged with an offence arising out of or in relation to *money laundering* and those proceedings have not yet been concluded.

15.4 The *FSCS* may pay compensation in respect of a *protected dormant account* to a claimant in respect of assets held by a *dormant account fund operator* if an insolvency practitioner has been appointed to the *dormant account fund operator* and:

- (1) the *FSCS* considers it likely that the insolvency practitioner would, in due course, return the assets to the claimant;

- (2) the claimant has agreed to be compensated for the assets on the basis of the valuation provided by the *FSCS*; and
- (3) the claimant has agreed, to the satisfaction of the *FSCS*, that his rights to the assets in respect of which compensation is payable should pass to it.

16 FUNDING – FSCS’S POWER TO LEVY AND LIMITS ON LEVIES

16.1 This Chapter applies only to the *FSCS*.

16.2 The *FSCS* may at any time impose a:

- (1) *DAS compensation costs levy* on a *DAS member*;
- (2) *DAS specific costs levy* on a *DAS member*, or
- (3) *base costs levy* on a *dormant account fund operator*

provided that the *FSCS* has reasonable grounds for believing that the funds available to it to meet relevant expenses are, or will be, insufficient, taking into account expenditure already incurred, actual and expected recoveries and:

- (a) in the case of a *DAS management expenses levy*, the level of the *FSCS*'s expected expenditure in respect of those expenses in the financial year of the *DAS compensation scheme* in relation to which the levy is imposed;
- (b) in the case of a *DAS compensation costs levy*
 - (i) the *FSCS*'s expenditure in respect of *DAS compensation costs* expected in the 12 *months* following the levy; or, if greater
 - (ii) one third of the *FSCS*'s expenditure in respect of *DAS compensation costs* expected in the 36 *months* following the levy.

16.3 The calculation of *dormant account scheme* levies must also take into account previous levies, where funds raised in anticipation of meeting liabilities prove either more or less than the amount actually required.

16.4 The maximum aggregate amount of *DAS compensation costs* and *DAS specific costs* for which the *FSCS* can levy *class J* in any one financial year of the *dormant account scheme* is limited to £[1,500,000,000] less whatever *DGS compensation costs*, *legacy costs* and *DGS specific costs* the *FSCS* has imposed on *class A* in that same financial year.

17 FUNDING – MANAGEMENT OF FUNDS LEVIED

17.1 This Chapter applies only to the *FSCS*.

17.2 The *FSCS* must hold any amount collected from a *DAS specific costs levy* or *DAS compensation costs levy* to the credit of *class J*.

- 17.3 Any funds received by the *FSCS* by way of levy or otherwise for the purposes of the *dormant account scheme* are to be managed as the *FSCS* considers appropriate, and in doing this the *FSCS* must act prudently.
- 17.4 Interest earned by the *FSCS* in the management of funds held to the credit of *class J* must be credited to that *class*, and must be set off against the *DAS management expenses* or *DAS compensation costs* allocated to that *class*.
- 17.5 The *FSCS* must keep accounts which include:
- (1) the funds held to the credit of *class J*; and
 - (2) the liabilities of *class J*.
- 17.6 If the *FSCS* has more funds (whether from levies, recoveries or otherwise) to the credit of *class J* than the *FSCS* believes will be required to meet levies on *class J* for the next 12 months, it may refund the surplus to members or former members of *class J* on any reasonable basis.

18 FUNDING – ADJUSTMENTS TO LEVY SHARES

- 18.1 This Chapter applies only to the *FSCS*.
- 18.2 The *FSCS* may adjust the calculation of a *DAS member's* share of a *DAS levy* to take proper account of:
- (1) any excess, not already taken into account, between previous levies of that type imposed in relation to previous periods and the relevant costs actually incurred in that period; or
 - (2) *DAS members* that are exempt from the levy under 25.4; or
 - (3) amounts that the *FSCS* has not been able to recover from *DAS members* as a result of 16.4; or
 - (4) amounts that the *FSCS* has not been able to recover from *DAS members* after having taken reasonable steps; or
 - (5) payments deferred under 25.2, the calculation of levies after an acquisition of business under 19 or 20, calculations under 21.7, remission of additional administrative fee under 23.4; or
 - (6) anything else that the *FSCS* believes on reasonable grounds should be taken into account.
- 18.3 The *FSCS* may not adjust the calculation of a *DAS member's* share of any *DAS levy* under 18.2 on the grounds that it would be inequitable for that *firm* to pay that share or part of it or on the grounds that it would be inequitable for the *FSCS* to retain that share or part of it. Any such claim should be dealt with under 25.
- 18.4 If a *DAS member's* share of a *DAS levy* or an additional administrative fee under this Part would be so small that, in the opinion of the *FSCS*, the costs of collection would be disproportionate to the amount payable, the *FSCS* may treat the *DAS member* as if its share of the levy or additional administrative fee amounted to zero.

19 FUNDING – BUSINESS ACQUISITIONS FROM DAS MEMBERS

- 19.1 This Chapter applies only to the *FSCS*.
- 19.2 If:
- (1) a *DAS member* (A) assumes the liability to repay the *dormant accounts* of another *DAS member* (B);
 - (2) B is no longer liable to pay a *DAS levy* to the *FSCS*; and
 - (3) the assumption of liability takes place after the date to which, or as of which, A's most recent *statement of business* is drawn up,
- the *FSCS* must require A pay an additional amount equal to the levy that would have been payable by B in relation to the relevant business and *class J* if the acquisition had not taken place and B had remained liable to pay *DAS levies*. The amount is based on B's most recent *statement of business*.
- 19.3 This Chapter only applies with respect to those financial years of the *FSCS* for which A's levies are calculated on the basis of a *statement of business* drawn up to a date, or as of a date, before the assumption of liability took place.

20 FUNDING – BUSINESS ACQUISITIONS FROM NON-DAS MEMBERS

- 20.1 This Chapter applies only to the *FSCS*.
- 20.2 If a *DAS member* (A) assumes a liability to repay *protected dormant accounts* held by a non-*DAS member* (B) and the assumption of liability takes place after the date to which, or as of which, A's most recent *statement of business* is drawn up, the *FSCS* must not require A to pay an additional amount as a result of that acquisition.
- 20.3 This Chapter only applies with respect to those financial years of the *FSCS* for which A's levies are calculated on the basis of a *statement of business* drawn up to a date, or as of a date, before the assumption of liability took place.

21 FUNDING – MANAGEMENT EXPENSES

- 21.1 This Chapter applies only to the *FSCS*.
- 21.2 A *DAS member's* share of a *DAS management expenses levy* consists of:
- (1) one or more of a share of a *DAS base costs levy* and a share of a *DAS specific costs levy* if the *DAS member* is a *dormant account fund operator*;
 - (2) a share of a *DAS specific costs levy* if the *DAS member* is not a *dormant account fund operator*.
- 21.3 The *FSCS* must ensure that each *DAS member's* share of a *DAS management expenses levy* separately identifies the *firm's* share of the *DAS base costs levy* and *DAS specific costs levy* as applicable.
- 21.4 The *FSCS* must allocate any *DAS specific costs levy* to *class J* up to the levy limit for *class J* under 16.4.
- 21.5 The *FSCS* must calculate a *DAS member's* share of a *DAS specific costs levy* by:

- (1) identifying the *DAS specific costs* which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the compensation schemes allocated to *class J*, but not yet levied;
- (2) calculating the *DAS member's class J tariff base* as a proportion of the *total class J tariff base*, using the *statement of business* most recently supplied; and
- (3) applying the proportion calculated in (2) to the figure in (1).

21.6 The *FSCS* must not require a *firm (A)* which becomes a *DAS member* part way through a financial year of the *dormant account scheme* to pay a share of a *DAS specific costs levy* until the financial year of the *FSCS* following the *FSCS* financial year in which *A* became a *DAS member*, at which time *A's* share of a *DAS specific costs levy* must be calculated under 21.7.

- 21.7 (1) Unless otherwise provided in (2) *A's class J tariff base* is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (2)
- (a) If *A's class J tariff base* is calculated using data from a period that begins on or after it became a *DAS member*, that data must be used to calculate *A's class J tariff base*.
 - (b) If a *A's class J tariff base* satisfies the following conditions, it must be calculated under (c):
 - (i) *A* became a *DAS member* between 1 April and 31 December inclusive; and
 - (ii) *A's class J tariff base*, but for this rule, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the *FSCS* financial year.
 - (c) If *A* satisfies the conditions in (b) it must calculate its *class J tariff base* as follows:
 - (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (ii) the tariff is calculated by reference to the period beginning on the date it became a *DAS member* and ending on the 31 December before the start of the *FSCS* financial year; and
 - (iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when *A* became a *DAS member* to the 31 December, as the case may be.
 - (d) Where *A* is required to use the method in (c) it must notify the *FSCS* of its intention to do so by the date specified in 23.2.
 - (e) Where *A* is required to use actual data under this rule, 23.2 is disapplied, to the extent it is incompatible, in relation to the calculation of *A's* valuation date in its second financial year.

22 FUNDING – DAS COMPENSATION COSTS

- 22.1 This Chapter applies only to the *FSCS*.
- 22.2 The *FSCS* must allocate any *DAS compensation costs levy* to *DAS members* in accordance with the amount of *DAS compensation costs* arising from, or expected to arise from claims in respect of *protected dormant accounts* up to the levy limit of *class J* under 16.4.
- 22.3 The *FSCS* must calculate each *DAS member's* share of a *DAS compensation costs levy* by:
- (1) identifying the *DAS compensation costs* allocated to *class J*;
 - (2) calculating, in relation to *class J*, the *DAS member's* tariff base as a proportion of the total tariff base of all *DAS members* in *class J*, using the *statement of business* most recently supplied;
 - (3) applying the proportion calculated in (2) to the figure in (1).
- 22.4 When calculating a *DAS member's* share of a *DAS compensation costs levy* or *DAS specific costs levy* allocated to *class J*, the *FSCS* must use the *class J tariff base*.
- 22.5 A *firm* which becomes a *DAS member* part way through a financial year of the *dormant account scheme* will not be liable to pay a share of a *DAS compensation costs levy* made in that year.
- 22.6 21.6 applies to the calculation of a *DAS member's* *DAS compensation costs levy* and its tariff base as it applies to the calculation of its *DAS specific costs levy*.

23 FUNDING – REPORTING REQUIREMENTS

- 23.1 This Chapter applies only to *DAS members*.
- 23.2 Unless exempt under 25.4, a *DAS member* must provide the *FSCS* by end of February each year (or, if it has become a *DAS member* part way through the financial year, by the date requested by the *PRA* with a statement of the total amount of business (measured in accordance with the *class J tariff base*) which it conducted, in respect of the most recent valuation period ending before the relevant year in relation to *class J*.
- The relevant year means the year in which the month of February (referred to above) falls.
- The valuation period will be 31 December.
- 23.3 A new *DAS member* must calculate its *class J tariff base* in accordance with 21.7.
- 23.4 If a *DAS member* does not submit a complete *statement of business* by the date on which it is due in accordance with 23.2 and any prescribed submission procedures:
- (1) the *DAS member* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee by the *PRA* for the same financial year); and

- (2) the *DAS compensation costs levy* and any *DAS specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if it has become a *DAS member* part way through a financial year, on the basis of the information provided to the *PRA* for the purposes of FEES 4.4.2 R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

24 FUNDING – OBLIGATION TO PAY

- 24.1 This Chapter applies only to *DAS members*.
- 24.2 A *firm* must pay to the *FSCS* its share of each:
- (1) *DAS management expenses levy*; and
 - (2) *DAS compensation costs levy* allocated to *class J*.
- unless the firm is exempt under 25.4.
- 24.3 If a *firm* does not pay the total amount of its share of a *DAS levy*, before the end of the date on which it is due, it must pay an additional amount as follows:
- (1) if the *DAS levy* was not paid in full before the end of the due date, an administrative fee of £250; plus
 - (2) interest on any unpaid part of the *DAS levy* or administrative fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

25 FUNDING - OVERPAYMENTS, DEFERRAL AND EXEMPTION

- 25.1 The *FSCS* may reduce, remit or refund any overpaid amounts paid by a *DAS member* in respect of a particular period, due to a mistake of law or fact by the *DAS member* provided that the claim is made by the *DAS member* not more than 2 years after the beginning of the period to which the overpayment relates.
- 25.2 The *PRA* may defer, in whole or in part, a *firm's* obligation to pay a *DAS levy* if the *PRA* considers that such contributions would jeopardise the liquidity or solvency of the *firm*. Such deferral shall not be granted for a longer period than six months but may be renewed upon request of the *firm*.
- 25.3 Any contributions deferred pursuant to 25.2 shall be paid when the payment no longer jeopardises the liquidity and solvency of the *firm*.
- 25.4 A *firm* which does not conduct business that could give rise to a claim covered by the *dormant account scheme* and has no reasonable likelihood of doing so is exempt from a *DAS specific costs levy* or a *DAS compensation costs levy* provided that:
- (1) it has notified the *FSCS* in writing that those conditions apply;

- (2) it has received written confirmation from *FSCS* that those conditions apply; and
- (3) the conditions in fact continue to apply.

The exemption takes effect from the date on which the firm receives confirmation from the *FSCS*.

- 25.5 A *firm* that is exempt under 25.4 must notify the *FSCS* in writing as soon as reasonably practicable if the conditions in 25.4 no longer apply.
- 25.6 If a *firm* is exempt under 25.4, it will be treated as a *DAS member* to which 26.5 applies until the end of the financial year of the *dormant account scheme* in which it received the confirmation from the *FSCS*.
- 25.7 For the purposes of 25.4, a *firm* will only be exempt from a *DAS specific costs levy* or *DAS compensation costs levy* for any given financial year if it met the conditions in 25.4 on 31 March of the immediately preceding financial year.
- 25.8 Where a *firm* no longer meets the criteria in 25.4, it is not subject to a *DAS specific costs levy* or a *DAS compensation costs levy* for the year in which it gave notice if the exemption was removed after the valuation date for that year's *class J tariff base*.

26 PAYMENT OF LEVIES

- 26.1 This Chapter applies only to *DAS members*.
- 26.2 Unless exempt under 25.4, a *firm* must pay its share of any levy made by the *FSCS* in one payment.
- 26.3 A *firm's* share of a *DAS levy* is due on, and payable within, 30 *days* of the date when the invoice is issued.
- 26.4 A *firm* must pay its share of a *DAS levy* by direct debit, credit transfer (e.g. BACS or CHAPS), cheque, Maestro, Visa Debit or by credit card (Visa/MasterCard/American Express only).
- 26.5 If a *firm* ceases to be a *DAS member* part way through a financial year of the *dormant account scheme*:
 - (1) it will remain liable for any unpaid levies which the *FSCS* has already made on the *firm*; and
 - (2) the *FSCS* may make one or more levies upon it (which may be before or after the *firm* has ceased to be a *DAS member* but must be before it ceases to be a *firm* for the costs which it would have been liable to pay had the *FSCS* made a levy on all *DAS members* in the financial year it ceased to be a *DAS member*).

27 INFORMATION REQUIREMENTS

- 27.1 This Chapter applies to a *dormant account fund operator*.
- 27.2 A *dormant account fund operator* must be able to provide the *FSCS*, on request by the *FSCS* or the *PRA*, with all information which:

- (1) it holds; and
- (2) is necessary to enable the *FSCS* to prepare for the payment of compensation in accordance with this Part.

**PRA RULEBOOK: SOLVENCY II FIRMS NON SOLVENCY II FIRMS NON-AUTHORISED
PERSONS: POLICYHOLDER PROTECTION INSTRUMENT [YEAR]**

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in The Financial Services and Markets Act 2000 (“the Act”), The Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 (“the mesothelioma regulations”) and The Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001 (“the compensation transitionals order”):
- (1) section 137G (The PRA’s general rules) of the Act;
 - (2) section 137T (General supplementary powers) of the Act;
 - (3) section 213 (The compensation scheme) of the Act;
 - (4) section 214 (General) of the Act;
 - (5) section 215 (Rights of the scheme in insolvency) of the Act;
 - (6) section 216 (Continuity of long-term insurance policies) of the Act;
 - (7) section 217 (Insurers in financial difficulties) of the Act;
 - (8) section 218 (Annual Report) of the Act;
 - (9) section 218A (Regulators power to require information) of the Act;
 - (10) section 219 (Scheme manager’s power to require information) of the Act;
 - (11) section 223 (Management expenses) of the Act;
 - (12) article 9 (Article 9 defaults occurring before commencement) of the compensation transitionals order;
 - (13) article 9A (Contributions in relation to mesothelioma claims) of the compensation transitionals order;
 - (14) article 10 (Applications in respect of compulsory liability insurance) of the compensation transitionals order;
 - (15) article 12 (Applications under the new scheme) of the compensation transitionals order; and
 - (16) article 3 (Further power for Authority to make rules concerning mesothelioma claims) and 4 (Modification of FSMA in relation to FSA rules for mesothelioma claims) of the mesothelioma regulations.
- B. The rule-making powers referred to above and related provisions are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act and the compensation transitionals order.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

**PRA Rulebook: Solvency II Firms Non-Solvency II Firms Non-Authorised Persons:
Policyholder Protection Instrument [Year]**

- D. The PRA makes the rules in the Annex to this instrument.

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms Non-Solvency II Firms Non-Authorised Persons: Policyholder Protection Instrument [Year].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex

Note: the following rules are intended to supplement the rules in the Policyholder Protection Part consulted on in Annex B of Appendix 1 of Policyholder Protection CP21/14.

Insert the following new definitions (in appropriate alphabetical order) into the Glossary Part of the PRA Rulebook:

Act

means the Financial Services and Markets Act 2000.

commencement

means the beginning of the commencement day.

commencement day

means the *day* on which section 19 of the *Act* (The general prohibition) came into force, being 1 December 2001.

day

means a period of 24 hours beginning at midnight.

Insert the following new definitions (in appropriate alphabetical order) into 1.2 of the Policyholder Protection Part:

COMP

means the Compensation Sourcebook of the *PRA Handbook* in force immediately prior to 3 July 2015.

contribution group

means one of the groups of *participant firms* within a *sub-scheme* in existence prior to 1 April 2008 set out in *FEES* 6.5.7 R at the time, being groups that carried on business of a similar nature, to which *compensation costs* and *specific costs* were allocated in accordance with *FEES* 6.4 and *FEES* 6.5 in force at the time.

FEES

means the Fees Manual of the *PRA Handbook* in force immediately prior to 3 July 2015.

relevant former scheme

means in relation to an *article 9 default*, one of the following that applied to the default before *commencement*:

- (1) the Policyholders Protection Scheme established by the Policyholders Protection Act 1975; or
- (2) the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act 1986.

sub-scheme

means one of the sub-schemes to which the *FSCS* allocated liabilities for *compensation costs* prior to 1 April 2008, as described in *FEES* 6.5.7 R at the time.

SUP

means the Supervision Manual of the *PRA Handbook* in force immediately prior to 3 July 2015.

Insert the following new rules (in the appropriate numeric position) into the Policyholder Protection Part:

22 TRANSITIONAL ARRANGEMENTS

- 22.1 With effect on and from 3 July 2015, the rules in this Part apply to defaults or circumstances giving rise to arrangements made under 4.1 or measures taken under 5.1 or other such actions of the *FSCS* or any levy levied by the *FSCS*.
- 22.2 Prior to 3 July 2015, the rules in *COMP* and/or *FEES* (as the case may be) apply to defaults or circumstances giving rise to arrangements made under *COMP* 3.3.1R or to measures taken under *COMP* 3.3.3R or other such actions of the *FSCS* or any levy levied by the *FSCS*.
- 22.3 In this Part:
- (1) subject to (3), a *claim* under a *protected contract of insurance* includes a *claim* in respect of an *article 9 default*;
 - (2) where the *claim* is in respect of an *article 9 default*, the *FSCS* must apply the rules of the *relevant former scheme*, as they applied to the default before *commencement*, unless (3) applies;
 - (3) a *claim* must be treated as a *claim* in relation to a *protected contract of insurance* under 9.6 if the conditions in article 9A or 10(1)(a)–(d) of the *compensation transitionals order* are satisfied.
- 22.4 The rules of the Friendly Societies Protection Scheme are amended so that:
- (1) references to the person managing the scheme are replaced by references to the *FSCS*; and
 - (2) references to functions conferred upon the Friendly Societies Protection Scheme Board are replaced by references to functions conferred upon the *FSCS*.
- 22.5 (1) Any recoveries made by the *FSCS* after 31 March 2008 in relation to *protected claims* compensated prior to 1 April 2008, the costs of which were allocated to the relevant *contribution group* in place at the time, must be credited to the *insurance class* in place after 31 March 2008 to which the costs of the *protected claims* would have been allocated had it been compensated after that date, or if relevant, in accordance with *FEES* 6.3.20 R.
- (2) (1) does not apply to the extent that it is inconsistent with the *compensation transitionals order*.
- 22.6 For the purpose of *FEES* 6.5.13 R as it applied with respect to the *FSCS*'s financial year beginning on 1 April 2008, references in *FEES* 6.5.13 R to an *insurance class* must be read as references to an *insurance class* to which a *participant firm* belongs or will belong after 31 March 2008.

- 22.7 The amendments made by the Fees Manual (FSCS Funding) Instrument 2007 to:
- (1) *FEES* 6.5.16 R only have effect before 1 April 2008, for the purpose of *FSCS*'s financial year beginning on 1 April 2008;
 - (2) *FEES* 6 apply to any levy made after 31 March 2008. This is so even if:
 - (a) the *claim* against the *participant firm in default* arose or relates to circumstances arising before that date;
 - (b) the *participant firm* was *in default* before that date; or
 - (c) the levy relates to arrangements made or measures taken under *COMP* 3.3 before that date.
- 22.8
- (1) This rule adjusts the calculation of the tariff base for *insurance classes* B1 (General insurance provision) and C1 (Life and pensions provision). It applies if the *participant firm* is in run-off and has been in run-off since 1 November 2008.
 - (2) The whole of the levy is calculated by reference to *relevant net premium income* instead of being split 75:25 between *relevant net premium income* and eligible gross technical liabilities or mathematical reserves.
 - (3) A *participant firm* is in run-off for these purposes if:
 - (a) it has ceased to effect new *contracts of insurance*;
 - (b) its *permission for effecting contracts of insurance* has been cancelled;
 - (c) its exclusive remaining business is administering its remaining insurance liabilities; and
 - (d) where it is required to supply one, it has supplied a run-off plan under *SUP* App 2.8.1R.

HANDBOOK (RULEBOOK CONSEQUENTIALS [No.]) INSTRUMENT 2015**Powers exercised**

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 213 (The compensation scheme);
 - (4) section 214 (General);
 - (5) section 215 (Rights of the scheme on insolvency);
 - (6) section 218A (Regulators power to require information);
 - (7) section 223 (Management expenses); and
 - (8) section 224F (Rules about relevant schemes).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (consultation with the Financial Conduct Authority) (“FCA”), the PRA consulted the FCA. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

Commencement

- D. This instrument comes into force on [DATE].

Amendments

- E. The modules of the PRA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General provisions (GEN)	Annex B
Fees manual (FEES)	Annex C
Supervision manual (SUP)	Annex D
Credit Unions sourcebook (CREDS)	Annex E

Deletion

- G. Each of the following modules and chapters of the PRA’s Handbook is deleted:

FEES 6 (Financial Services Compensation Scheme Funding)
COMP (Compensation)

Citation

H. This instrument may be cited as the Handbook (Rulebook Consequential [No.]) Instrument 2015.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

Amend the following as shown:

annual eligible income ~~(in FEES) (in relation to a firm and a class) the annual income (as described FEES 6 Annex 3) for the firm's last financial year ended in the year to 31 December preceding the date for submission of the information under FEES 6.5.13 R, attributable to that class. A firm must calculate *annual eligible income* from such annual income in one of the following ways:~~

~~(a) only include such annual income if it is attributable to business conducted with or for the benefit of *eligible claimants* and is otherwise attributable to compensatable business; or~~

~~(b) include all such annual income.~~

article 9 default ~~(as defined in article 2(2) of the *compensation transitionals order*) any of the following:~~

~~(a) the passing of a resolution for the voluntary winding up of an authorised insurance company within the meaning of section 3 of the Policyholders Protection Act 1975 in circumstances falling within section 5(1)(a) of that Act;~~

~~(b) the making by the court of an order for the winding up of such a company in accordance with section 5(1)(b) of that Act;~~

~~(c) the appointment of a provisional liquidator in the circumstances falling within section 15 of that Act in respect of such a company;~~

~~(d) such a company becoming a company in financial difficulties within the meaning of section 16 of that Act;~~

~~(e) a *participating deposit taker* becoming insolvent for the purposes of Part II of the Banking Act 1987;~~

~~(f) a *participating institution* becoming insolvent within the meaning of section 25A of the Building Societies Act 1986;~~

~~(g) the beginning of a dissolution or transfer of engagements of a *member society* in accordance with rule 9(2) of the Rules of the Friendly Societies Protection Scheme.~~

~~*authorised insurance company* (In *COMP*) (in accordance with the *compensation transitionals order*) a person who was, at any time before *commencement*, authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on insurance business of any class in the *United Kingdom*.~~

~~*base costs levy* a levy, forming part of the *management expenses levy*, to meet the *base costs* in the financial year of the *compensation scheme* to which the levy relates, each *participant firm's* share being calculated in accordance with FEES 6.4.5 R.~~

class

...

(B) In the *PRA Handbook*:

....

(5) (in *FEES*) one of the classes to which *FSCS* allocates levies as described in FEES 6.5.7 R in accordance with the rules of the *compensation scheme*.

~~compensation costs~~ ————— ~~the costs incurred:~~

- ~~(a) in paying compensation; or~~
- ~~(b) as a result of making the arrangements contemplated in COMP 3.3.1 R or taking the measures contemplated in COMP 3.3.3 R; or~~
- ~~(c) in making payments or giving indemnities under COMP 11.2.3 R; or~~
- ~~(d) under section 214B or section 214D of the Act; or~~
- ~~(e) by virtue of section 61 (Sources of compensation) of the Banking Act 2009;~~
- ~~(including the costs of paying interest, principal and other costs of borrowing to pay such costs).~~

~~compensation costs levy~~ ————— ~~a levy imposed by the FSCS on participant firms to meet compensation costs, each participant firm's share being calculated in accordance with FEES 6.5~~

deferred share

(A) In the FCA Handbook:

(1) (other than in *CREDS* and *COMP*) in relation to a *building society*, a deferred share as defined in the Building Societies (Deferred Shares) Order 1991.

(2) (in *CREDS* and COMP 5.3.1 R (2)(cA)) in relation to a *Great Britain credit union*, means any share of a class defined as a deferred share by section 31A of the Credit Unions Act 1979.

(B) In the PRA Handbook:

in relation to a *building society*, a deferred share as defined in the Building Societies (Deferred Shares) Order 1991.

deposit

(A) In the FCA Handbook:

(1)

(B) In the PRA Handbook:

the investment, specified in article 74 and defined in articles 5(2) and 5(3) of the Regulated Activities Order, which is in summary: a sum of money (other than one excluded by any of articles 6 to 9 AB of the Regulated Activities Order) paid on terms:

(1) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and

(2) which are not referable to the provision of property (other than currency) or services or the giving of security; in this definition, money is paid on terms which are referable to the provision of property or services or the giving of security if, and only if:

(a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided; or

(b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or

(c) without prejudice to (ii), it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.

DGD claim

(A) In the PRA Handbook:

a claim, in relation to a protected deposit, against a CRD credit institution, whether established in the United Kingdom or in another EEA State.

electronic SCV rules

(in COMP) COMP 17.2.1 R(2), COMP 17.2.3 R(3) and COMP 17.2.5 R, the application of

which is determined by COMP 17.1 and COMP 17.2.7 R.

eligible claimant — a person eligible to have a *complaint* considered under the *Financial Ombudsman Service*, as defined in DISP 2.7 (Is the complainant eligible?).

establishment costs — (1) (in FEES 6) the costs of establishing the *compensation scheme*.

(2) (in FEES 5) the costs of establishing the *Financial Ombudsman Service*.

in default — the status of being in default following a determination made under COMP 6.3.1 R.

investment business compensation scheme — (as defined in article 2(2) of the *compensation transitionals order*) any of the following:

(a) the scheme established under section 54 of the Financial Services Act 1986 and known as the Investors Compensation Scheme;

(b) the scheme established under section 22j of the Grey Paper published by the FSA on 26 September 1998 and known as the Section 43 Compensation Scheme;

(c) the scheme established by chapter II of part L:VIII of the *PIA* rule book and known as the *PIA* Indemnity Scheme;

(d) the scheme resulting from an agreement dated 1 February 1999 between the Association of British Insurers and the Investors Compensation Scheme Limited for the making of payments by way of compensation to widows, widowers and dependants of persons (since deceased), in connection with advice given to such persons in relation to pensions, or the arranging of pensions for such persons, and known as the *ABI/ICS* scheme.

large mutual association

(A) (in the *PRA Handbook*):

(1) (in *COMP*), an unincorporated mutual association or an unincorporated association (which is not a mutual

association) with net assets of more than £1.4 million (or its equivalent in any currency at the relevant time).

~~(2) (except in COMP), A mutual association or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

...

large partnership

(A) (in the *PRA Handbook*):

~~(1) (in COMP), a partnership with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

~~(2) (except in COMP), A partnership or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).~~

levy limit

...

~~(B) In the *PRA Handbook*:~~

~~(in FEES) the maximum aggregate amount of compensation costs and specific costs that may be allocated to a particular class in one financial year as set out in FEES 6 Annex 2 R.~~

management expenses

(A) In the *FCA Handbook*:

(1) (except in *INSPRU*) ...

(2) (in *INSPRU*) ...

(B) In the *PRA Handbook*:

~~(1) (except in *INSPRU*) (in accordance with section 223 of the Act (Management expenses)) expenses incurred or expected to be incurred by the *FSCS* in connection with its function under the Act, other than compensation costs and costs incurred under Part 15A of the Act; for the purposes of FEES 6 these are~~

~~subdivided into *base costs*, *specific costs* and *establishment costs*.~~

~~(2) (in *INSPRU*) in relation to *long-term insurance business*, means all expenses, other than *commission*, incurred in the administration of an *insurer* or its business.~~

~~*management expenses levy* — a levy imposed by the *FSCS* on *participant firms* to meet the *management expenses* and which is made up of one or more of a *base cost levy* and a *specific costs levy*, each *participant firm's* share being calculated in accordance with FEES 6.4.~~

~~*MERS levy* — a levy (management expenses in respect of relevant schemes levy) imposed by the *FSCS* on *participant firms* to meet the management expenses incurred by the *FSCS* in connection with acting on behalf of the *manager of the relevant scheme* in accordance with Part 15A of the *Act*.~~

~~*mesothelioma victim* — (in accordance with section 3 (1) of the Compensation Act 2006) a *person* who has contracted mesothelioma as a result of exposure to asbestos by a *responsible person*.~~

~~*money-purchase benefits* — (A) In the *FCA Handbook*:~~

~~(1) (except in *COMP*) (in relation to an *occupational pension scheme*) benefits the rate or amount of which are calculated by reference to a payment or payments made by a member of the scheme.~~

~~(2) (in *COMP*) in relation to a member of a *personal pension scheme* or an *occupational pension scheme* or the widow or widower or surviving civil partner of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a~~

payment or payments made by the member or by any other *person* in respect of the member and which are not average salary benefits.

(B) In the *PRA Handbook*:

(in relation to an *occupational pension scheme*) benefits the rate or amount of which are calculated by reference to a payment or payments made by a member of the scheme.

~~*occupational pension fund management business*—(in *COMP*) the business of carrying on:~~

~~(1) *pension fund management*; or~~

~~(2) (other than in connection with a *personal pension scheme*) *pension fund management*, written as linked long term business, for an *occupational pension scheme* or for an institution falling within article 2 of the Council Directive of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (No 2003/41/EC) but only to the extent that:~~

~~(a) there is no transfer to the *participant firm* of:~~

~~(i) investment, market, or credit risk;~~

~~(iii) mortality or expense risk prior to any annuity being effected; and~~

~~(b) any annuity options provide for the *participant firm* to change the annuity rates without prior notice.~~

participant firm

(A) In the *PRA Handbook*:

(1) (except in FEES 1 and FEES 6) a *firm* or a *member* other than:

(a)

(2) (in FEES 1 and FEES 6) a *firm* specified in paragraph (1) above that is not a *member*.

(B) In the *FCA Handbook*:

(1) ...

<i>pending application</i>	<p>(as defined in article 3(1) of the <i>compensation transitionals order</i>);</p> <p>(a) an application for compensation made under an investment business compensation scheme before commencement in relation to which a terminating event did not occur before commencement; and</p> <p>(b) an application made to the FSCS after commencement under an investment business compensation scheme, even if at the time of application that scheme had otherwise ceased to exist.</p>
<i>PRA's SCV requirements</i>	<p>(in <i>COMP</i>) the <i>PRA's</i> requirements with respect to <i>single customer view</i>.</p>
<i>protected claim</i>	<p>a claim which is covered by the compensation scheme, as defined in COMP 5.2.1 R.</p>
<i>protected contract of insurance</i>	<p>a contract of insurance which is covered by the compensation scheme, as defined in COMP 5.4.1 R.</p>
<i>protected deposit</i>	<p>deposit which is covered by the compensation scheme, as defined in COMP 5.3.1 R.</p>
<i>protected dormant account</i>	<p>a dormant account which is covered by the compensation scheme, as defined in COMP 5.3.2R.</p>
<i>protected home finance mediation</i>	<p>activities in relation to home finance transactions which are covered by the compensation scheme, as defined in COMP 5.6.1 R.</p>
<i>protected investment business</i>	<p>designated investment business which is covered by the compensation scheme, as defined in COMP 5.5.1 R.</p>
<i>protected non investment insurance</i>	

<i>mediation</i>	insurance mediation activities which are covered by the compensation scheme, as defined in COMP 5.7.1 R.
<i>quantification date</i>	the date as at which the liability of the relevant person in default is to be determined under COMP 12.3.
<i>reinsurance contract</i>	(in, COBS 21, ICOBS, CASS 5 and COMP) a contract of insurance covering all or part of a risk to which a person is exposed under a contract of insurance.
<i>relevant former scheme</i>	<p>(as defined in article 2(2) of the compensation transitionals order):</p> <p>(a) in relation to a pending application, the investment business compensation scheme under which the application was made;</p> <p>(b) in relation to an article 9 default, one of the following that applied to the default before commencement:</p> <ul style="list-style-type: none"> (i) the Policyholders Protection Scheme established by the Policyholders Protection Act 1975; (ii) the Deposit Protection Scheme established by Part II of the Banking Act 1987; (iii) the Building Societies Investor Protection Scheme established by Part IV of the Building Societies Act 1986; (iv) the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act 1986.
<i>relevant general insurance contract</i>	<p>(in COMP) any general insurance contract other than:</p> <ul style="list-style-type: none"> (a) [deleted] (b) [deleted]

~~(c) a contract falling within any of the following classes:~~

- ~~(i) aircraft;~~
- ~~(ii) ships;~~
- ~~(iii) goods in transit;~~
- ~~(iv) aircraft liability;~~
- ~~(v) liability of ships;~~
- ~~(vi) credit.~~

~~relevant net premium income~~ — (1) ~~(in relation to business which is not occupational pension fund management business) the premium income in respect of protected contracts of insurance of a firm; or~~

~~(2) (in relation to occupational pension fund management business) the remuneration retained by a firm in relation to its carrying on occupational pension fund management business~~

~~in the year preceding that in which the date for submission of the information under FEES 6.5.13 R falls, net of any relevant rebates or refunds.~~

relevant person

(A) In the FCA Handbook:

(1) (in COMP) a person for claims against whom the compensation scheme provides cover, as defined in COMP 6.2.1 R.

(2)

(B) In the PRA Handbook:

Any of the following:

(1) a director, partner or equivalent, manager or appointed representative (or where applicable, tied agent) of the firm;

(2) a director, partner or equivalent, or manager of any appointed representative (or where applicable, tied agent) of the firm;

(3) an employee of the firm or of an appointed representative (or where applicable, tied agent)

of the firm; as well as any other natural person whose services are placed at the disposal and under the control of the firm or an appointed representative or a tied agent of the firm and who is involved in the provision by the firm of regulated activities;

(4) a natural person who is directly involved in the provision of services to the firm or its appointed representative (or where applicable, tied agent) under an outsourcing arrangement or (in the case of a management company) a delegation arrangement to third parties, for the purpose of the provision by the firm of regulated activities or (in the case of a management company) collective portfolio management.

[Note: article 2(3) of the MiFID implementing Directive and article 3(3) of the UCITS implementing Directive]

relevant scheme

~~(1) (except in FEES 6) a collective investment scheme managed by an EEA UCITS management company.~~

~~(2) (in FEES 6) a scheme or arrangement (other than the compensation scheme) for the payment of compensation (in certain cases) to customers (including customers outside the United Kingdom) of persons (including persons outside the United Kingdom) who provide financial services (including financial services provided outside the United Kingdom) or carry on a business connected with the provision of such services.~~

repayment claim

~~(in relation to a dormant account) a claim for repayment made by virtue of sections 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008, that is, in summary, that the customer has against the dormant account fund operator whatever right to payment of the balance the customer would have against the bank or building society if the transfer (or in the case of section 2(2)(b), transfers) had not happened. In this definition, 'customer' is the person who held with a bank or building society the balance of a dormant~~

	<i>account transferred to a dormant account fund operator.</i>
<i>responsible person</i>	<p>(1) (except in COMP) (as defined in section 3(8) of the Child Trust Funds Act 2004) a person with parental responsibility in relation to a child under 16 who is not:</p> <p>(a) a local authority or, in Northern Ireland, an authority within the meaning of the Children (Northern Ireland) Order 1995 (SI 1995/755 (NI 2)); or</p> <p>(b) a person under 16.</p> <p>(2) (in COMP) (in accordance with section 3(1) of the Compensation Act 2006) a person who has negligently or in breach of statutory duty caused or permitted another person to be exposed to asbestos (including an insurer of such a person).</p>
<i>retail pool</i>	the pool of <i>classes</i> to which the FSCS allocates levies as described in FEES 6.5A [to follow].
<i>SCV implementation report</i>	(in COMP) a report in accordance with COMP 17.3.6 R explaining how the relevant <i>firm</i> has satisfied the <i>PRA's SCV requirements</i> .
<i>SCV report</i>	(in COMP) a report in accordance with COMP 17.3.9 R from the relevant <i>firm's</i> board of directors confirming that the <i>firm's SCV system</i> satisfies the <i>PRA's SCV requirements</i> .
<i>SCV system</i>	(in COMP) a <i>firm's</i> system for satisfying the <i>PRA's SCV requirements</i> .
<i>single customer view</i>	(in COMP) a single, consistent view of an <i>eligible claimant's</i> aggregate <i>protected deposits</i> with the relevant <i>firm</i> which contains the information required by COMP 17.2.4 R, but excluding from that view those accounts where the <i>eligible claimant</i> is a beneficiary rather than the account holder or if the account is not active as defined in COMP 17.2.3 R (2).

<i>small business</i>	(in <i>COMP</i>) a <i>partnership, body corporate, unincorporated association or mutual association</i> with an annual turnover of less than £1 million (or its equivalent in any other currency at the relevant time).
<i>specific costs</i>	<i>management expenses other than base costs and establishment costs.</i>
<i>specific costs levy</i>	a levy, forming part of the <i>management expenses levy</i> , to meet the <i>specific costs</i> in the financial year of the <i>compensation scheme</i> to which the levy relates, each <i>participant firm's</i> share being calculated in accordance with FEES 6.4.7 R.
<i>terminating event</i>	(as defined in article 2(1) of the <i>compensation transitionals order</i>) in relation to applications made under an <i>investment business compensation scheme</i> , the withdrawal, discontinuance or rejection of the application, or its determination by a final payment of compensation to the applicant.
<i>working day</i>	<p>(1) (in <i>PR</i> and <i>COMP</i>) (as defined in section 103 of the <i>Act</i>) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the <i>United Kingdom</i>.</p> <p>(2) (in relation to an <i>underwriter</i> and for the purpose of <i>BIPRU</i> but not for the purpose of the definition of <i>working day 0</i>) the number of <i>business days</i> after <i>working day 0</i> specified by the provision in question so that, for example, <i>working day one</i> means the <i>business day</i> following <i>working day 0</i>.</p>

Annex B

Amendments to General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text

2.2.2 G ~~[PRA]~~ Examples of rules being interpreted as cut back by *GEN 2.2.23 R* include
5 the following:

(1) ~~[deleted]~~

(2) ~~*SYSC 6.1.1 R* requires a *firm* to maintain adequate policies and procedures to ensure compliance with its obligations under the *regulatory system*; *SYSC 6.1.1 R* should be interpreted:~~

(a) as applied by the ~~*FCA*~~ in respect of a ~~*PRA-
authorised person's*~~ compliance with regulatory obligations that are the responsibility of the ~~*FCA*~~ (for example, in respect of a ~~*bank*~~ maintaining policies and procedures to ensure compliance with banking conduct requirements in ~~*BCOBS*~~); and,

(b) as applied by the ~~*PRA*~~ in respect of a ~~*PRA-
authorised person's*~~ compliance with those regulatory obligations that are the responsibility of the ~~*PRA*~~ (for example, in respect of a ~~*bank*~~ maintaining policies and procedures to ensure compliance with financial resources requirements in the ~~*PRA*~~ Rulebook and the ~~*EU*~~

~~CRR).~~

- (3) ~~COMP 5.2.1 R sets out types of *protected claims* to be covered by the FSCS. The powers of the FCA and the PRA to make this type of rule are set out in the order made under section 213(1A) of the Act. The rule must be read as applying only to the extent of those powers. For example, the PRA has no power to make COMP 5.2.1 R (3) creating *protected claims* in connection with *protected investment business*, and the FCA has no power to make COMP 5.2.1 R (1) as creating *protected claims* for a *protected deposit*. As such, those provisions are to be interpreted as not applied by the PRA and FCA, respectively.~~

2.2.25A G **[PRA]** - Examples of rules being interpreted as cut back by GEN 2.2.23R include the following:

- (1) [deleted]
- (2) SYSC 6.1.1R requires a firm to maintain adequate policies and procedures to ensure compliance with its obligations under the regulatory system; SYSC 6.1.1 R should be interpreted:
- (a) as applied by the FCA in respect of a PRA-authorised person's compliance with regulatory obligations that are the responsibility of the FCA (for example, in respect of a bank maintaining policies and procedures to ensure compliance with banking conduct requirements in BCOBS); and,
- (b) as applied by the PRA in respect of a PRA-authorised person's compliance with those regulatory obligations that are the responsibility of the PRA (for example, in respect of a bank maintaining policies and procedures to ensure compliance with financial resources requirements in the PRA Rulebook and the EU CRR).

Annex C

Amendments to the Fees manual

In this Annex, underlining indicates new text and striking through indicates deleted text

- 1 Fees Manual**
- 1.1 Application and purpose**
- 1.1.1 ~~G~~ ~~FEES applies to all persons required to pay a fee or levy under a provision of the Handbook. The purpose of this chapter is to set out to whom the rules and guidance in FEES apply. FEES 2 (General Provisions) contains general provisions which may apply to any type of fee payer. FEES 3 (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event for example various application fees (including those in relation to authorisation, variation of Part 4A permission, listing and the Basel Capital Accord) and fees relating to certain notifications and document vetting requests. FEES 4 (Periodic fees) covers all periodic fees and transaction reporting fees. FEES 5 (Financial Ombudsman Service Funding) relates to FOS levies and case fees (in FEES 5.5A). FEES 6 (Financial Services Compensation Scheme Funding) relates to the FSCS levy. FEES 7 relates to the CFEB levy.~~
- 1.1.1- A FEES applies to all persons required to pay a fee or levy under a provision of the Handbook. The purpose of this chapter is to set out to whom the rules and guidance in FEES apply. FEES 2 (General Provisions) contains general provisions which may apply to any type of fee payer. FEES 3 (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event for example various application fees (including those in relation to authorisation, variation of Part 4A permission, listing and the Basel Capital Accord) and fees relating to certain notifications and document vetting requests. FEES 4 (Periodic fees) covers all periodic fees and transaction reporting fees.
- 1.1.2 R ...
- (4) ~~FEES 1, 2 and 6 apply to:~~
- (a) ~~every participant firm;~~
- (b) ~~the FSCS; and~~
- (c) ~~the Society.~~
- ...
- 2 General provisions**
- 2.1.1 R ~~Except to the extent referred to in FEES 2.1.1A R, this chapter applies to every person who is required to pay a fee or share of a levy to the appropriate~~

regulator, *FOS Ltd* or *FSCS*, as the case may be, by a provision of the *Handbook*.

2.1.1- R This chapter applies to every *person* who is required to pay a fee or share of a
A levy to the *PRA* by a provision of the *Handbook*.

...

2.1.4 G ~~The purpose of this chapter is to set out the general provisions applicable to those who are required to pay fees or levies to the *appropriate regulator* or a share of the *FSCS* levy.~~

2.1.4A G The purpose of this chapter is to set out the general provisions applicable to those who are required to pay fees or levies to the *PRA*.

2.1.5- G Paragraph 31 of Schedule 1ZB of the *Act* enables the *PRA* to charge fees to cover its costs and expenses in carrying out its functions. ~~The corresponding provisions for the *FSCS* levy are set out in *FEES 6.1*.~~
 A

...

2.1.7 G ~~The key components of the *appropriate regulator* fee mechanism (excluding the *FSCS* levy, the *FOS* levy and case fees, and the *CFEB* levy which are dealt with in *FEES 5*, *FEES 6* and *FEES 7*) are:~~

- (1) ~~a funding requirement derived from:

 - (a) ~~the *appropriate regulator's* financial management and reporting framework;~~
 - (b) ~~the *appropriate regulator's* budget; and~~
 - (c) ~~adjustments for audited variances between budgeted and actual expenditure in the previous accounting year, and reserves movements (in accordance with the *appropriate regulator's* reserves policy);~~~~
- (2) ~~mechanisms for applying penalties received during previous financial years for the benefit of fee payers;~~
- (3) ~~fee blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the *appropriate regulator's* regulatory objectives;~~
- (4) ~~a costing system to allocate an appropriate part of the funding requirement to each fee block; and~~
- (5) ~~tariff bases, which, when combined with fee tariffs, allow the calculation~~

of fees.

2.1.7A G The key components of the PRA fee mechanism (excluding levies relating to the FSCS) are:

- (1) a funding requirement derived from:
 - (a) the PRA's financial management and reporting framework;
 - (b) the PRA's budget; and
 - (c) adjustments for audited variances between budgeted and actual expenditure in the previous accounting year, and reserves movements (in accordance with the PRA's reserves policy);
- (2) mechanisms for applying penalties received during previous financial years for the benefit of fee payers;
- (3) fee-blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the PRA's regulatory objectives;
- (4) a costing system to allocate an appropriate part of the funding requirement to each fee-block; and
- (5) tariff bases, which, when combined with fee tariffs, allow the calculation of fees.

...

2.2.1 R If a person does not pay the total amount of a periodic fee, FOS levy, or share of the FSCS levy or CFEB levy, before the end of the date on which it is due, under the relevant provision in FEES 4, 5, 6 or 7, that person must pay an additional amount as follows:

- (1) if the fee was not paid in full before the end of the due date, an administrative fee of £250; plus
- (2) interest on any unpaid part of the fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

2.2.1A R If a person does not pay the total amount of a periodic fee before the end of the date on which it is due, under the relevant provision in FEES 4, that person must pay an additional amount as follows:

- (1) if the fee was not paid in full before the end of the due date, an administrative fee of £250; plus

(2) interest on any unpaid part of the fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

...

- 2.2.3 G Paragraphs 23(8) and 27 of Schedule 1ZA and paragraphs 31(7) and 35 of Schedule 1ZB of the *Act* permit the *FCA* and *PRA* respectively to recover fees (including in respect of the *FCA*, fees relating to *payment services*, the issuance of *electronic money* and, where relevant, *FOS levies* and *CFEB levies*), and section 213(6) permits the *FSCS* to recover shares of the *FSCS* levy payable, as a debt owed to the *FCA*, *PRA* and *FSCS* respectively, and the *FCA*, *PRA* and *FSCS*, as relevant, will consider taking action for recovery (including interest) through the civil courts.
- 2.2.3A G Paragraphs 31(7) and 35 of Schedule 1ZB of the *Act* permits the *PRA* to recover fees as a debt owed to the *PRA* and the *PRA* will consider taking action for recovery (including interest) through the civil courts.
- 2.2.4 G In addition, the *appropriate regulator* may be entitled to take regulatory action in relation to the non-payment of fees, *FOS levies* and *CFEB levies*. The *appropriate regulator* may also take regulatory action in relation to the non-payment of a share of the *FSCS* levy, after reference of the matter to the *appropriate regulator* by the *FSCS*. What action (if any) that is taken by the *appropriate regulator* will be decided upon in the light of the particular circumstances of the case.
- 2.2.4A G In addition, the *PRA* may be entitled to take regulatory action in relation to the non-payment of fees. What action (if any) that is taken by the *PRA* will be decided upon in the light of the particular circumstances of the case.
- 2.3.1 R If it appears to the *appropriate regulator* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy or *CFEB* levy would be inequitable, the *appropriate regulator* or the *FSCS* as relevant, may (unless *FEES 2.3.2B R* applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.
- 2.3.1A R If it appears to the *PRA* that in the exceptional circumstances of a particular case, the payment of any fee would be inequitable, the *PRA* may (unless *FEES 2.3.2B R* applies) reduce or remit all or part of the fee in question which would otherwise be payable.
- 2.3.2 R If it appears to the *appropriate regulator* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which *FEES 2.3.1R* does not apply, the retention by the *appropriate regulator*, the

~~*FSCS*, or the *CFEB*, as relevant, of a fee, *FSCS* levy, *FOS* levy or *CFEB* levy which has been paid would be inequitable, the *appropriate regulator*, the *FSCS* or the *CFEB*, may (unless *FEES 2.3.2B R* applies) refund all or part of that fee or levy.~~

2.3.2- A R If it appears to the *PRA* that in the exceptional circumstances of a particular case to which *FEES 2.3.1A R* does not apply, the retention by the *PRA* of a fee which has been paid would be inequitable, the *PRA* may (unless *FEES 2.3.2C R* applies) refund all or part of that fee.

...

~~2.3.2B R The *appropriate regulator* or the *FSCS* may not consider a claim under *FEES 2.3.1 R* and/or *FEES 2.3.2 R* to reduce, remit or refund any overpaid amounts paid by a fee or levy payer in respect of a particular period, due to a mistake of fact or law by the fee or levy payer, if the claim is made by the fee or levy payer more than 2 years after the beginning of the period to which the overpayment relates.~~

2.3.2C R The *PRA* may not consider a claim under *FEES 2.3.1A R* and/or *FEES 2.3.2-A R* to reduce, remit or refund any overpaid amounts paid by a fee payer in respect of a particular period, due to a mistake of fact or law by the fee payer, if the claim is made by the fee payer more than 2 years after the beginning of the period to which the overpayment relates.

Annex E

Amendments to the Credit Unions Sourcebook (CREDS)

In this Annex new text is underlined and deleted text is struck through.

Sch G ~~[PRA]~~
3.2

Description of fee	Reference
Appropriate regulator rules relating to authorisation fees	FEES 3
Schedule of authorisation fees payable	FEES 3 Annex 1 R
Appropriate regulator fees rules relating to the periodic fee	FEES 4
Schedule of periodic fees payable	FEES 4 Annex 2A R Part 1 and FEES 4 Annex 2B R Part 1
FOS funding rules	FEES 5
FSCS funding rules	FEES 6

Sch G ~~[PRA]~~-
3.2A

Description of fee	Reference
Appropriate regulator rules relating to authorisation fees	FEES 3
Schedule of authorisation fees payable	FEES 3 Annex 1 R
Appropriate regulator fees rules relating to the periodic fee	FEES 4
Schedule of periodic fees payable	FEES 4 Annex 2A R Part 1 and FEES 4 Annex 2B R Part 1

<u>FOS funding rules</u>	<u>FEES 5</u>
<u>FSCS funding rules</u>	<u>FEES 6-Depositor Protection Part,</u> <u>Management Expenses in Respect of Relevant</u> <u>Schemes Part</u>



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Appendix 5

Supervisory Statement | SS[xx]/15

Marking eligible deposits and accounts, and transitional issues

1. This supervisory statement sets out the Prudential Regulation Authority's (PRA's) expectations of how firms will mark eligible deposits and accounts, meet recast Deposit Guarantee Schemes Directive (DGSD) information requirements and expectations around Single Customer View (SCV) reporting during the transition period.

2. This statement is intended to be read together with Depositor Protection 11.1–11.4 and 48.1–48.8 of the PRA Rulebook. It is relevant to deposit takers (hereafter, 'firms') to which these rules apply.

3. By setting out the PRA's expectations with regards to the marking of eligible deposits and accounts, recast DGSD information requirements and SCV reporting, this statement may help to minimise the adverse effect that the failure of a PRA firm could have on financial stability and enhance depositor confidence and therefore contribute towards the safety and soundness of firms.

Requirement to mark eligible deposits

4. Depositor Protection 11.1 and 48.2 set out that a firm must mark eligible deposits in a way that allows for immediate identification of such deposits as required by Article 5(4) of the recast DGSD. The PRA considers that firms can meet this requirement in a number of ways, including but not limited to:

- (a) marking eligible or ineligible deposits under the recast DGSD at core systems level (ie flagging at account level);
- (b) a separate file showing eligible (and/or ineligible) deposits; or
- (c) using the SCV files and exclusions files.

5. In 4(a), firms should have the ability to extract from their core systems a list of eligible and/or ineligible deposits. In both 4(b) and 4(c), the files must be produced or updated on a rolling daily basis or where no rolling daily files are updated or produced, capable of being produced immediately following any request from the PRA or the Financial Services Compensation Scheme (FSCS). Such an approach is not a requirement under the depositor protection rules, but is an option for firms to use to meet Depositor Protection 11.1 and 48.2. The requirements around the timing and content of SCV file production remains as specified in the relevant rules.

6. If firms wish to use option 4(c) to meet the marking requirement, the PRA expects that firms, by 3 July 2015, have updated their SCV files to remove all ineligible deposits and include newly eligible deposits under the recast DGSD (including the eligible deposits of large corporates). Such an approach is not a requirement under the PRA transitional rules, but is an option for firms to use to meet Depositor Protection 48.2. The requirements around the timing and

content of SCV file production remains as specified in the relevant rules.

7. The options above would similarly apply to Depositor Protection 11.2 and 48.3.

8. The PRA expects that in compliance with the requirement in Depositor Protection 11.1–11.2 and 48.2–48.3 to mark eligible deposits 'in a way that allows for the immediate identification of such deposits', a firm must be able to make the details of such eligible and ineligible accounts (separately identified) available to the PRA or FSCS in a format consistent with the relevant rule and this statement and within five hours from the point of a request from the PRA or the FSCS.

9. For the purposes of meeting Depositor Protection 11.1 and 48.2, the PRA considers the marking of eligible deposits may be achieved by marking accounts of eligible depositors which contain eligible deposits. For the avoidance of doubt, where such an account balance becomes negative, the PRA does not expect firms to remove the eligible deposit marker.

Requirement to mark eligible accounts

10. Depositor Protection 11.3 sets out that a firm must mark accounts which hold:

- (1) eligible deposits of natural persons and micro, small and medium-sized enterprises (SMEs); and
- (2) such deposits that would be eligible if they had not been made (ie are held in an account) at a branch of the firm located outside of the EEA.

11. The PRA considers that firms can meet the Depositor Protection 11.3 requirements set out above in a number of ways, including but not limited to:

- (a) marking relevant natural person and SME accounts at core systems level (ie flagging at account level);
- (b) a separate file showing relevant accounts; or
- (c) using the SCV and exclusions files (to meet requirement 10(1) only).

12. The PRA expects that in compliance with the requirement in Depositor Protection 11.3 to mark accounts 'in a way that allows for the immediate identification of such accounts', a firm must be able to make the details of such marked accounts available to the PRA or FSCS in a format consistent with the relevant rule and this statement, and within 24 hours from the point of a request from the PRA or the FSCS.

13. If firms wish to use options 11(a)–11(c) to meet the marking requirement, the same considerations as in paragraph 5 would apply.

14. Requirement 10(2) can not be met by 11(c) as SCV files do not capture non-eligible deposits.

Recast DGSD information requirements during transition period

15. Chapter 48 of the Depositor Protection Part sets out a number of information requirements firms are expected to meet in line with recast DGSD requirements. Depositor Protection 48.4 and 48.5 require that firms upon receipt of a request must be able to provide the FSCS with the aggregated amounts of eligible deposits of every depositor. Depositor Protection 48.6 and 48.7 require that a firm upon receipt of a request must be able to provide the FSCS with all information necessary to enable the FSCS to prepare for the payment of compensation and that they must provide this information to the FSCS to enable the FSCS to pay compensation within the applicable time period.

16. During the transition period when Depositor Protection Chapter 48 applies, where firms have not yet included the eligible deposits of large corporates in their SCV files or where firms do not yet have an SCV file, the PRA expects these firms to give consideration to what information would be needed by the FSCS in a failure scenario and to have a plan in place for meeting the requirements should they receive a request from the FSCS.

17. For example, where a firm currently has insufficient information to report the aggregate amount for their large corporate deposits on an individual legal entity basis, the PRA expects firms to have a plan in place for how they would obtain this information upon receipt of a request from the FSCS.

18. For the avoidance of doubt, firms are not required to collect this information to meet the requirements ahead of such a request, only to have a credible plan in place to do so in the event of a request.

SCV reporting

19. The PRA considers that minor changes to a firm's SCV system (such as to achieve the SCV changes outlined in Depositor Protection Chapter 50) would not constitute a material change to the SCV system. However, the full implementation of the SCV changes required under Depositor Protection Chapters 11–13, or significant steps towards this, would be considered a material change.

20. The PRA expects that firms will begin to make progress towards final rules during the transition period. In order to ensure firms are able to implement Depositor Protection Chapters 11–13 ahead of the required implementation date, if so desired, the PRA considers that firms may submit SCV files and reports during the transition period compliant with Depositor Protection Chapters 50 and 51, but including the additional provisions set out in Depositor Protection Chapters 11–13.



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Appendix 6

Statement of Policy

Dormant Account Scheme

1 Introduction

1. This statement is aimed at the Financial Services Compensation Scheme (FSCS) in respect of its role as scheme manager of the Dormant Account Scheme (DAS) but may also be of interest to firms and depositors.

2. The Prudential Regulation Authority (PRA) is required, under section 213 of the Financial Services and Markets Act (FSMA), to make rules establishing a scheme for compensating persons in cases where a dormant account fund operator is unable, or likely to be unable, to satisfy a repayment claim against it. These rules are set out in the Dormant Account Scheme Part of the PRA rulebook, and apply to the FSCS and firms that are DAS members.

3. The purpose of this statement is to set out the expectations of the PRA on the FSCS with regards to:

- (a) the duties of the FSCS;
- (b) the FSCS's role in assessing and paying compensation in respect of dormant accounts; and
- (c) the FSCS's role in the funding of the DAS.

4. By providing further information to the FSCS with regards to its duties and role in paying and funding compensation of the DAS, this statement of policy aims to ensure an effective DAS and thus contribute towards the safety and soundness of a dormant account fund operator.

5. This statement of policy is intended to be read together with the rules specific to dormant accounts as set out in the Dormant Accounts Scheme Part of the PRA Rulebook, which applies to the FSCS, dormant account fund operators and firms that are DAS members. The funding section is also intended to be read with the Management Expenses Levy Limit and Base Costs Part and the Management Expenses in respect of Relevant Schemes Part of the PRA Rulebook.

2 Context

6. The FSCS exercises the functions that are conferred on the scheme manager by Part XV of FSMA.

7. In addition to the PRA's rules, other aspects of the operation of the FSCS are dealt with through the powers of the FSCS under company law (such as the power to borrow, to take on premises, etc) and through rules made by the Financial Conduct Authority (FCA).

8. Also, FSMA confers certain powers upon the FSCS, such as a power under section 219 (Scheme Manager's powers to require information) to require persons to provide information.

3 Paying compensation

Paying claimants and other compensation recipients

9. The FSCS will usually pay compensation direct to the claimant, but in certain circumstances it may be appropriate for the FSCS to pay compensation to someone other than the claimant, or to make reduced or interim payments. Dormant Account Scheme Chapter 7 of the PRA Rulebook sets out when those circumstances arise.

Claims on behalf of another person

10. Dormant Account Scheme Chapter 6 allows the FSCS to pay compensation to a person other than the claimant in certain circumstances. The PRA considers examples of the circumstances covered by these rules to be:

- (a) when personal representatives make a claim on behalf of the deceased;
- (b) when trustees make a claim on behalf of beneficiaries (for further provisions relating to claims by trustees, see Dormant Account Scheme 6.5–6.8);
- (c) when the donee of an enduring power of attorney or a lasting power of attorney makes a claim on behalf of the donor of the power;
- (d) when the Court of Protection makes a claim on behalf of a person incapable by reason of mental disorder of managing and administering their property and affairs; and
- (e) when the claimant dies before receiving compensation.

Calculation of the compensation sum

11. Dormant Account Scheme Chapter 8 sets out how the FSCS should calculate a compensation sum. In calculating the depositor's overall compensation, the FSCS may rely, to the extent that it is relevant, on any determination by:

- (a) a court of competent jurisdiction;
- (b) a trustee in bankruptcy;
- (c) a liquidator; and
- (d) any other recognised insolvency practitioner.

Dormant Accounts

12. The purpose of Dormant Account Scheme 5.3 is to ensure that persons whose balances in a dormant account have been transferred to a dormant account fund operator do not have their entitlement to compensation reduced in the event of default of the dormant account fund operator. Accordingly, a

person who held dormant accounts with two or more different relevant persons, the liability for which were transferred to the dormant account fund operator, could still be compensated by the FSCS on the basis of accounts with two or more separate relevant persons (and so could receive up to twice or more the deposit compensation limit in compensation) rather than just one account with one relevant person.

4 Funding of the FSCS (Dormant Account Scheme)

Levying timings

13. As required by s213(3)(b) of FSMA, the PRA has made rules enabling the FSCS to impose levies on firms in order to meet FSCS expenses. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

14. The FSCS may impose two types of levy under the Dormant Account Scheme Part of the PRA Rulebook:

- (a) a DAS management expenses levy (consisting of a DAS base costs levy and a DAS specific costs levy); and
- (b) a DAS compensation costs levy.

15. The FSCS has discretion as to the amount and timing of the levies imposed, although DAS compensation costs levies and DAS specific cost levies are subject, together with Deposit Guarantee Scheme (DGS) compensation costs and DGS specific costs, to an annual cap. This cap is set by the PRA. There is also a cap on the annual FSCS management expenses levy, which is set jointly by the PRA and the FCA.

16. The FSCS will usually levy once in each financial year (and in respect of DAS compensation costs, for expenditure expected in the period of 12 months following 1 July in that year). However, if the DAS compensation costs or DAS specific costs incurred, or expected to be incurred, exceed the amounts held, or reasonably expected to be held, to meet those costs, the FSCS may, at any time during the financial year, do one or more of the following:

- (a) impose an interim DAS compensation costs levy or DAS management expenses levy;
- (b) utilise other sources of funding such as commercial borrowing or other borrowing including from the National Loans Fund; and
- (c) utilise money collected from firms as set out in, and subject to, Dormant Account Scheme 16.

17. The PRA expects that the FSCS should generally impose a levy rather than borrow or utilise funds as described in (b)

and (c), unless these options appear to it to be preferable in the specific circumstances prevailing at the relevant time; for example, to address short-term liquidity issues, or in order to deal with a significant failure without having to wait for a levy to be imposed or collected.

DAS management expenses levy

18. The PRA's rules on the Management Expenses Levy and Management Expenses in respect of Relevant Schemes are set out in the Management Expenses Levy Limit and Base Costs Rulebook Part and Management Expenses in respect of Relevant Schemes Rulebook Part of the PRA Rulebook.

19. A DAS management expenses levy may consist of two elements. The first is a DAS base costs levy, for the base costs of running the FSCS in a financial year, ie, costs which are not attributable to any specific class. Included in this category are items such as the salary of the members of the board of the FSCS, the costs of the premises which the FSCS occupies, and its audit fees. It would also likely include the cost of any insurance cover secured by the FSCS against the risk of it paying claims out in circumstances where the levy limit of the particular class to which the claim would otherwise be attributable has exceeded its levy limit for the year, as the insurance cover is likely to benefit all classes which may have costs allocated to them if the levy limit of another class is breached. The amount that a dormant account fund operator pays towards a DAS base costs levy is calculated by reference to the regulatory costs paid by the firm as a proportion of total regulatory costs of all participation firms.

20. The second element of a management expenses levy is a DAS specific costs levy for the 'specific costs' of running the dormant account scheme in a financial year. These costs are attributable to the dormant account class, and include the salary costs of certain staff of the FSCS, claims handling and legal and other professional fees. It also may include the cost of any insurance cover that FSCS secures against the risk of FSCS paying out compensation above a given level in the dormant account class (but below the levy limit for that class for the year). The specific costs are attributed to the class which is responsible for those costs. When the FSCS imposes a DAS specific costs levy, the levy is allocated to the dormant account class up to the relevant levy limits.

21. The FSCS may include in a DAS specific costs levy the DAS specific costs that the FSCS expects to incur (including in respect of defaults not yet declared at the date of the levy) during the financial year of the DAS. The amount that each DAS member pays towards the DAS specific costs levy is calculated by reference to the amount of business conducted by the firm in the deposit class. The dormant account class has a 'tariff base' for this purpose, set out in PRA rules. DAS members may be exempt from contributing to the specific costs levy.

22. The PRA and the FCA typically consult on the limit on the FSCS's management expenses attributable to the forthcoming financial year of the FSCS in January each year.

Fees refund

23. Dormant Account Scheme 18.2 sets out when the FSCS may adjust the calculation of a DAS member's share of any levy. Dormant Account Scheme 18.3 sets out that the FSCS may not adjust the calculation of a DAS member's levy under Dormant Account Scheme 18.2 on the grounds that it would be inequitable for that firm to pay that share or part of it (or on the grounds that it would be inequitable for the FSCS to retain that share or part of it). The reason for this rule is that any such claim should be dealt with under Dormant Account Scheme Chapter 25 in the PRA Rulebook.

Valuation period

24. For DAS members, the valuation date for the class J tariff base for second year levies, is as at 31 December in the relevant year (but for Dormant Account Scheme 21.6). For example, for the FSCS levy year ending in March 2015, the valuation date is as at 31 December 2014 (but for Dormant Account Scheme 21.6).

25. The above example can also be applied to the calculation of the tariff bases under Dormant Account Scheme 22.6 of the PRA Rulebook.

Recovery of Fees

26. Paragraphs 23(8) and 27 of Schedule 1ZA and paragraphs 31(7) and 35 of Schedule 1ZB of FSMA permit the PRA to recover fees, and section 213(6) permits the FSCS to recover shares of the FSCS levy payable, as a debt owed to the PRA and the FSCS respectively. The PRA and the FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts.

27. The PRA may also take regulatory action in relation to the non-payment of a share of a DAS levy, after reference of the matter to the PRA by the FSCS. Action taken by the PRA will be decided upon in the light of the particular circumstances of the case.

Remission of Fees and levies

28. Dormant Account Scheme Chapter 25 sets out the circumstances in which the PRA or the FSCS may reduce or remit FSCS levies. A poor estimate or forecast by a DAS member, when providing information relevant to the class J tariff base, is unlikely, of itself, to amount to fall within Dormant Account Scheme 25.1. By contrast, a mistake of fact or law by a fee or levy payer may give rise to such a claim.



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Appendix 7

Supervisory Statement | SS[xx]/15

Dormant Account Scheme

1 Introduction

1. This supervisory statement sets out the expectations of the Prudential Regulation Authority (PRA) on dormant account fund operators with regards to the requirements for such firms to be able to provide the Financial Services Compensation Scheme (FSCS) with certain information.

2. This statement is intended to be read together with the rules contained in Chapter 27 of the Dormant Account Scheme Part of the PRA Rulebook.

2 Information Requirement

3. Dormant Account Scheme 27.2 sets out that a dormant account fund operator must be able to provide the FSCS with all information which it holds and which is necessary to enable the FSCS to prepare for the payment of compensation following a request from the PRA or FSCS.

4. The information that the PRA expects a dormant account fund operator to be able to provide to the FSCS following a request should include, where held, the following in respect of each eligible claimant:

- the claimant's name;
- the claimant's date of birth (where known);
- the claimant's address (where known);
- the details of the account from which the dormant account was transferred and/or most recent account details supplied. (This should include the name of the bank or building society, account number and sort code where known); and
- the protected dormant account balance.

5. For the avoidance of doubt, the PRA does not expect a dormant account fund operator to take steps to contact dormant account holders where information set out above is not held.

6. The PRA does not expect a dormant account fund operator to provide to the FSCS any aggregate protected dormant account balance amounts.